

May 13, 2009



TRANSCRIPT

May 13, 2009

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Valerie Ervin

Councilmember Nancy Floreen

Councilmember Michael Knapp

Councilmember George Leventhal

Councilmember Duchy Trachtenberg

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody. Welcome to a meeting of the County Council. We are sorry to
3 be delayed this morning, but we had a very important MFP committee meeting that had to
4 occur before this meeting, so it was a necessity. I'm going to make a couple
5 announcements regarding the schedule and today's agenda, and then we'll go right into a
6 briefing on third quarterly analysis of revenues and expenditures by OMB and Finance,
7 and then a status report of FY10 revenues and expenditures, and that will begin our
8 meeting, but in terms of the schedule for today, we are going to be deferring 2 of the bills
9 that were on the agenda. Expedited bill 15-09, Recordation Tax Use of Revenue. We are
10 going to defer that until next week. We want to have the benefit of the State Board of
11 Education's decision on our waiver request before we take that bill up, and we're also
12 going to defer bill 4-09 Development Impact Tax on the recommendation of the MFP
13 committee until we have more detail from the executive about their thinking about how the
14 impact will play out. And third--

15
16 COUNCILMEMBER KNAPP:

17 Mr. President, what was the second bill number that you--

18
19 COUNCIL PRESIDENT ANDREWS:

20 Second bill was 409, the Development Impact Tax. That's item 6 on the agenda. So we're
21 deferring items 4 and 6.

22
23 COUNCILMEMBER LEVENTHAL:

24 Thank you.

25
26 COUNCIL PRESIDENT ANDREWS:

27 OK, and the third announcement is that while we will continue as scheduled tomorrow with
28 our capital reconciliation, we are going to defer the operating budget reconciliation until
29 next week, probably Tuesday, again because we hope to hear from the State Board of
30 Education by the end of this week about our request on the waiver, and we would like to
31 have that information available before we start putting the operating budget to bed, so
32 those are the announcements that I'll make at the beginning of the meeting. And we think
33 now we'll launch right into a briefing by the Office of Management and Budget, and the
34 Department of Finance on the third quarterly analysis of FY '09 revenues and
35 expenditures, in other words, this year's, and then the status report by Steve Farber, and
36 he's actually going to be working on both of these on review FY10 revenues and
37 expenditures. I'd like everybody at the table to introduce themselves for those listening in
38 or are watching on television so that they can connect your voice with a title.

39
40 DAVID PLATT:

41 David Platt, Chief of Commerce, Department of Finance.

May 13, 2009



1 ROB HAGEDOORN:

2 Rob Hagedoorn , Chief, Division of Treasury, Department of Finance.

4 JENNIFER BARRETT:

5 Jennifer Barrett, Director of Finance.

7 STEPHEN FARBER:

8 Stephen Farber, the Council Staff Director.

10 JOE BEACH:

11 Joe Beach, Director, OMB.

13 ALEX ESPINOSA:

14 Alex Espinosa, Operating Budget Coordinator, OMB.

16 COUNCIL PRESIDENT ANDREWS:

17 Good to see you all, and who's gonna lead off?

19 STEPHEN FARBER:

20 We have before us the third quarterly analysis of FY09 revenues and expenditures
21 prepared by OMB and Department of Finance, and we're going to hear first from Mr.
22 Beach and then from Ms. Barrett about what they have prepared for us. I think we can
23 cover this quite quickly and move on to the next item, but first, Mr. Beach.

25 JOE BEACH:

26 Thank you. Good morning. I think the bottom line to our analysis on the third quarterly
27 projections is that we're on track from our previous estimates for fiscal year '09. They are
28 consistent with the assumptions and projections we made in our FY '10 budget. There
29 have been some fluctuations among departments, but overall some deficits were offset by
30 other projected savings that were greater than we had previously estimated, and I believe
31 we do have in total resources from the release of the set-aside and additional savings
32 about 200,000 additional in savings in FY09 that can be applied to the FY10 budget as
33 well. We go into more detail in our memo to the County Council, and so I can address any
34 specific questions, but that would be, I think, the basic thing I'd like to communicate to the
35 council as we are on track in our management of expenditures in FY09.

37 COUNCIL PRESIDENT ANDREWS:

38 Good, good. I'll see if there are any questions. I don't see any. So 200,000 deposit. All
39 right, it's in the right direction. OK. Well, I think we'll move on then to the next item, or
40 other comments if the executive branch has it about the first item. Are we ready to move
41 on?

May 13, 2009



1 JENNIFER BARRETT:
2 If you don't mind, I will take the opportunity, since you asked about other comments,
3 because it's a bit of an aside, but particularly of interest to some of the councilmembers, I
4 wanted to announce that yesterday we closed on the liquor revenue bonds that we issued.
5 The first tranche of liquor revenue bonds was issued to fund the acquisition of the Finmarc
6 site that the council approved as well as the Montrose project down the street, and so we
7 got a true interest cost of less than 4.2% on those, a double A-minus rating from S&P. So
8 I did want to mention that because there's a referral to it in the operating expenditure
9 items, but that aside, I will turn it over to Mr. Platt, our chief economist, to talk about the
10 revenue.
11
12 COUNCILMEMBER LEVENTHAL:
13 Mr. President?
14
15 COUNCIL PRESIDENT ANDREWS:
16 Yes?
17
18 COUNCILMEMBER LEVENTHAL:
19 I just wanted to assure Ms. Barrett that I, and I'm sure other councilmembers, are doing
20 our part to secure the financing for those bonds.
21
22 COUNCIL PRESIDENT ANDREWS:
23 Ha ha!
24
25 COUNCILMEMBER ERVIN:
26 ...is that with your margarita intake this summer, correct?
27
28 JENNIFER BARRETT:
29 We appreciate that.
30
31 COUNCIL PRESIDENT ANDREWS:
32 All right. Supporting the local economy. Very good. All right, Councilmember...let's see,
33 Councilmember Floreen?
34
35 COUNCILMEMBER FLOREEN:
36 Yeah, thank you. I just want to verify what I'm reading in this report, I think, is that for fiscal
37 year '09 our revenues are offsetting our expenditures at this point. Is that correct? So it's--
38 we're pretty even.
39
40 JOE BEACH:
41 We are balanced, correct.
42

May 13, 2009



1 COUNCILMEMBER FLOREEN:
2 And it's actually up a little bit?
3
4 JOE BEACH:
5 Yes. Our projection of expenditures showed savings of about 200,000 more than we had
6 previously estimated.
7
8 COUNCILMEMBER FLOREEN:
9 So in total, what are the savings that we see in this budget? Is the 200,000 total?
10
11 JOE BEACH:
12 200,000 would be additional. We had projected tax-supported expenditure savings at the
13 second quarter and in the executive's FY10 budget as part of that of about \$17 million.
14
15 COUNCILMEMBER FLOREEN:
16 That's-- I'm looking on circle 4. That's a tax-supported total where you have the variance,
17 that's the 17 million?
18
19 JOE BEACH:
20 That's correct.
21
22 COUNCILMEMBER FLOREEN:
23 So we're coming in with expenditures \$17 million below where we had budgeted them
24 basically.
25
26 JOE BEACH:
27 Yeah, that is correct. Yeah, as a result of the efforts of our departments in managing the
28 year expenditures as part of the savings plan.
29
30 COUNCILMEMBER FLOREEN:
31 Yeah, that's great, and you're saying that it's 200,000 in addition to that number then? The
32 17 plus--
33
34 JOE BEACH:
35 Yes. The 17,085,000 is about 200,000 greater than what--
36
37 COUNCILMEMBER FLOREEN:
38 Oh, OK, so that's the number, that's the number, OK. But the number is not 200,000
39 more. That is the number you're referring to? That is--
40
41 JOE BEACH:
42 The total number is the 17.1 million.



May 13, 2009

1 COUNCILMEMBER FLOREEN:

2 OK, great. Thanks. That's good news.

4 COUNCIL PRESIDENT ANDREWS:

5 OK, thank you, Councilmember Floreen. All right, I think we're ready, I think, then to move
6 on. Or--You have a comment as well?

8 DAVID PLATT:

9 The revenues were basically on track so far this year. I mean, they're up a total about
10 3.2%.

12 COUNCIL PRESIDENT ANDREWS:

13 OK.

15 DAVID PLATT:

16 That's really attributed, as Mr. Farber has in his cover memo and then to our report is
17 that's largely attributed to the property tax. Certainly as we had said before that the
18 income taxes are below last year, so is the recordation and transfer of taxes are running
19 below. So I'll just give you some highlights if--

21 COUNCIL PRESIDENT ANDREWS:

22 OK. Go ahead.

24 DAVID PLATT:

25 To go through this, that the total tax collections, including investment income and highway
26 user revenue total a little over \$1.9 billion at 3.2% over last year. Income tax collections
27 were a little over 800 million, and they're about 1/10% below last year, and that's basically
28 on target with our estimate for March. Property taxes are running about 13.4%, and that's
29 attributed both to the higher assessments and to the increase in the general fund rate.
30 These are general fund numbers specifically. Transfer recordation taxes are about-- well,
31 the transfer tax is about 47.9 million, which is 20.7% below where we were last year, and
32 again, it's the continuation of both the housing sales and the average price declines. The
33 recordation tax, we're at 29.2 million, and that's an increase of 28.1%. The volume of
34 transfers during the first 3/4 FY09 was down 7.9%, which again tracks fairly well with the
35 sales that we're looking at or have seen since this fiscal year. The combined amount of
36 revenues from the transfer and recordation tax is about 77.1 million. That's down about
37 23.7% from last year. This is through March. It's a little bit better number through April that
38 we've got. It's a little bit better, about...a little bit below the 23%, but that's an improvement
39 because the sales in April were flat but the prices are not decreasing as we had
40 experienced in the past, so through April we're still seeing a dramatic decline, but I think
41 we're now starting to see, as everyone says, maybe a bottom to the housing market, but I
42 wouldn't pop the cork on the champagne yet speaking of the liquor bonds, but I think we're



May 13, 2009

1 approaching the bottom of the housing market. Now, whether that's going to improve or
2 not and that's gonna improve in construction has yet to be determined. On the side of the
3 consumption taxes, which is the fuel and energy, we're running now at 9.4% which is
4 about on track, what we thought, because of the carbon tax increase. This is an update
5 through April. The hotel/motel tax is one that we thought would pick up because of the
6 inauguration, but that's running a little bit behind, but that's the only one that we see is
7 tracking a little bit behind our target. But the other taxes, the fuel and energy, the
8 telephone tax, even the emissions tax has picked up a little bit, so overall, we're probably
9 on target with all the consumption taxes, and we're gonna keep an eye on hotel/motel tax
10 because now we're coming into the peak period with the-- what they call April, May, June
11 period, and we'll track that. On the investment income, no surprise, the Fed has--

12
13 COUNCIL PRESIDENT ANDREWS:

14 One thing, Mr. Platt. I know that we had a real bump in January on the inauguration--

15
16 DAVID PLATT:

17 We did, but I would say it's not as much as we had thought. We did see a bump, there's
18 no question about it, but it didn't carry over until February and March, so I think that we're
19 gonna see a little bit of a trial on the hotel/motel. And I think it's mostly the weekend
20 traveler that's really going to--that's--and the business travel has slowed down a little bit
21 because of the recession. On the investment income, because the Fed has maintained its
22 rate of 0-.25%, we are still expecting a significant decline in our investment income over
23 the year. And we're still on track based on our revised estimate in March. Highways
24 revenue. We've collected to date--or received, I should say, 19.3 million, which is 13.4%
25 below the first 3/4 of last year, so that's where we are.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Thank you. Thank you for your good work, and as someone who's served on MFP
29 committee over the years, I've been very impressed with your analysis and the work of
30 your office. Thank you. I don't see any questions or comments on the first item, so I think
31 we can now move on to our second agenda item, which is the status report on the
32 overview of FY10 revenues and expenditures.

33
34 STEPHEN FARBER:

35 Thank you, Mr. Andrews. I'm joined by Chuck Sherer as well as our colleagues from OMB
36 and Finance. Chuck once again has done a terrific job in putting together the
37 spreadsheets that you see on circles A and B that describe where we are as of this point
38 in time. Janet Kiepke give our staff working with Kathleen Patterson of OMB have also
39 once again this year done a great job on the tracking report that you see attached to my
40 memo. We tried very hard to be as precise as we can about all of the different actions that
41 you've taken both in committee and full council. We want to take account of those so that
42 when you make your final decisions, you're doing so from a base of information that is

May 13, 2009



1 100% accurate, and we appreciate the work of our analysts in helping us put this together
2 on a consistent basis. We are where we are right now, of course, because of the hard
3 work of many people. Councilmembers, both in committee and full council, everyone on
4 the fifth and sixth floors of this building, our colleagues here from OMB and Finance and
5 their counterparts in all of the agencies, the College, Park and Planning, as well as MCPS.
6 Basically, what this report shows in point 1 of my memo is that right now, in terms of the
7 actions that the council's taken, the budget, the aggregate operating budget stands from
8 the council's perspective at 10.4 million less than the county executive's, but it's important
9 to make 2 points about this. Number 1, this number reflects the decision you made
10 yesterday that you would take up to \$3.6 million in rental assistance funding from DHHS
11 and go over to the housing initiative fund, and that's a decision that you indicated
12 yesterday you plan to review in the context of the entire fiscal 10 reconciliation list. And
13 this number also reflects the unanimous recommendation from the MFP committee to
14 defer action on the proposed 2009 Retirement Incentive Program. As you know, the
15 executive had assumed that that would save \$2.3 million in fiscal 10. We wanted to make
16 sure to be precise on these points because otherwise we would have the potential of
17 double counting, and we want to avoid that. Perhaps the most important line, on circles A
18 and B, is line 49 on circle A, and what that shows is that right now, you are 1.9 million
19 above the 5% reserve target that has been established for this year. That is to say there
20 are currently 1.9 million in resources that you can start applying to the reconciliation list.
21 How large is the reconciliation list? You have that separately, and that is currently \$8. 2
22 million. Conceptually, however, it might be useful to think about this \$8.2 million as having
23 \$3.6 million more. That is to say, this amount that you have deducted from DHHS for
24 rental assistance. And you indicated that you wanted to think about that in conjunction
25 with the reconciliation list. So really the reconciliation list from that perspective would be at
26 \$11.8 million, 8.2 million on the list as you have it, plus the 3.6 million from rental
27 assistance that you discussed yesterday, and if you take that total sum, 11.8 million, as I
28 say, you have \$1.9 million in resources to apply toward it, and the question is, where can
29 the additional resources come from? Now, this is a very tight budget, and you have
30 already made a host of decisions that are based on very constrained resources.
31 Budgeting is not for the faint-hearted, and budgeting is never an exercise in epistemological
32 purity, and that's especially true in a year like this when things are as tight as they are.
33 What I suggested here are 2 areas above and beyond those that you've already examined
34 that you can look to. Both have pros and cons. One is to increase lapse in county
35 government based on the experience we had in the fiscal 8 and 9 savings plan. You had
36 \$3.6 million in lapse savings in the fiscal 8 plan, and you had 5.5. million in lapse savings
37 in the fiscal 9 plan. And keep in mind that these savings plans were mid-year plans. In
38 other words, we're now at the beginning of a new fiscal year, but these savings were
39 achieved in the middle of the fiscal year. I think on the other side of the argument is that
40 we've already taken county government down a great deal. It is the agency of the four that
41 has been reduced the most. Right now, after the final adjustments, the schools, the
42 college, and Park and Planning are all up slightly, but county government actually is in

May 13, 2009



1 negative territory. In fact, the aggregate operating budget that you are going to approve in
2 all likelihood next week is going to be smaller than the budget you approved 1 year ago,
3 probably by at least \$5 million, and that's, I think, a very clear indication of how stringent
4 this budget is, and that's even after you add back reconciliation-list items, so there is an
5 argument for going up to \$4 million in additional lapse savings, but I don't want to
6 misrepresent the impact of that, and I have included on your--in front of you on the dais,
7 underneath the additional copy of this memo, there's a copy of the budgeted lapse for
8 fiscal 9 and fiscal 10 provided by OMB, and it indicates what the assumptions are.
9 Basically lapse for county government was assumed--or was approved--at 19.7 million
10 last year, and it's assumed at 20.1 million for fiscal 10. A very small increase as you can
11 see, but one of the reasons for that is that there have been an awful lot of positions that
12 have been abolished, and it will be a further exercise in terms of achieving further lapse.
13 My own view is that it can be done. We have used the additional lapse as a margin of
14 safety--that is to say when we do mid-year savings plans, and it is--it's possible that we'll
15 have to do one again. We hope not, but we may 4-6 months from now. But this is certainly
16 one area that I think it's legitimate to look at, and the second area comes from my
17 conversation with Mr. Orlin as he has worked to reconcile the CIP. This is to defer funding
18 for part of the I.T. college CIP project, which is a total of 8.5 million for fiscal 10, to defer
19 part of it until fiscal 11. Not to delete it, but to defer it, to stretch it out, and in this regard I
20 would make the point that we have already, as Ms. Ervin knows in the Education
21 Committee, reduced \$2.4 million from the MCPS tech mod project. That has been done
22 already, but with respect to county government, we have already taken some major
23 reductions in DTS and in technology projects generally related to the inception of the
24 MC311 project. We took \$1.875 million, you'll remember, for the fourth quarter fiscal 10.
25 We've taken a host of other reductions in the cable fund, FiberNet, and so forth, and so it
26 seemed to Mr. Orlin and me that from a burden-sharing perspective, it would be at least
27 legitimate to look at this particular project not in terms of deleting it, but in terms of
28 stretching it out, and that would be up to 3.5 million in accordance with the reconciliation
29 efforts that Mr. Orlin is making. There are a couple of other areas I think we can look at
30 above and beyond those that we've already taken, and we've taken a great many of them.
31 One was Ms. Ervin's suggestion with respect to DTS, that was \$320,000, and that is
32 actually on the reconciliation list as a negative, and we can look to that. That will have
33 consequences but we certainly can look to that. And then finally, a smaller issue,
34 \$237,000. That's the funding for the placeholder for the expanded Personal Patrol Vehicle
35 Program. This would be available if the Council decides to endorse the unanimous
36 recommendation from the MFP committee to defer action on this particular proposal. So
37 these would be some additional resources. If we total them up, there's 1.9, or nearly \$2
38 million, that's already in the bank. Then you've got a potential here of another 7.5 or 8
39 million, so you're close to 10 million at least in potential additional resources, and you
40 have between the reconciliation list of 8.2 million and the rental assistance issue of 3.6
41 million, 11.8 million in potential claims on resources. We never, of course, fund the entire



May 13, 2009

1 reconciliation list, and as you make your decisions about what you do want to fund, these
2 are the resources that we've identified that might be available to help you do that job.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you very much for that-- I thought very clear explanation of where we are. We are
6 very fortunate to have your good analysis on fiscal matters and others, and thank you for,
7 again, a very good summary and for all the excellent work that's been done by all of the
8 staff on the fifth floor to track the budget and to provide good recommendations to the
9 council. I'll turn to Councilmember Elrich.

10
11 COUNCILMEMBER ELRICH:

12 I had a question about the lapse. When we were doing the PHED committee, and I think
13 Nancy raised a point about recre--not recreation. About Park and Planning, about the
14 lapse, there's the lapse we approved, and then there's the inherent underlying lapse which
15 seems to be often greater than what we approve, and I guess my question about your
16 lapse assumptions are, are you saying that we could go higher because solely attributable
17 to decisions that were made mid-year for this budget or is there an historic reason? In
18 other words, are we normally lapsing more than what is in this budget, so that taking the
19 lapse higher would just be a closer reflection of what's been reality and practice over the
20 past few years?

21
22 STEPHEN FARBER:

23 Well, the point I was making has to do with what we've done in fiscal 8 and fiscal 9 in the
24 savings plan where we were able to find additional lapse, 3.6 million in fiscal 8 and 5.5
25 million in fiscal 9 above and beyond what had already been budgeted. These
26 assumptions, of course, or these actions are not without consequence, and that is
27 particularly true as Mr. Beach has pointed out in a year when we're already pretty
28 constrained in terms of our staffing for county government, but I think what history shows
29 is that it is doable. What it really means is that when we're replacing folks, we take a little
30 bit longer than we would otherwise take. Is that difficult? In some cases I think it certainly
31 would be, but is it doable? I think it is.

32
33 COUNCILMEMBER ELRICH:

34 I guess my question's a little--I mean, I'm sure you can--we can make anything doable. It's
35 more to the point that, for example, in Park and Planning, they don't deliberately have a
36 lapse which is higher than what we budget, but practice causes that to be the lapse they
37 have anyway. It's just--has nothing to do with trying to make savings or hit a number. It
38 has to do with, no matter what they try to do, they don't meet their target, and I guess my
39 question is, were we to...even if we were to use the lower lapse figure, would they achieve
40 that anyway? Or would they--would there be more lapse than what we're accounting for in
41 the budget, and if that's vaguely predictable, even a portion of it, not all 4 million but some

May 13, 2009



1 of it, shouldn't we just take what we're likely to do rather than assume that everything will
2 get filled that could get filled?

3
4 STEPHEN FARBER:

5 I think that's hard to answer, Mr. Elrich. I mean, I think it's gonna vary a little bit by
6 department. In some departments, I think it's more important than in others to fill positions
7 quickly. The executive does have transfer authority, as you know, among departments up
8 to 10%, and it seems to me that the executive can utilize that transfer authority so that he
9 can make the rough places plain, as it were, when necessary. In other words, if one
10 department needs a little bit more coverage than others with respect to lapse, he'd be able
11 to do that.

12
13 JOE BEACH:

14 Mr. President, I'd like to be able to make some comments here about this. Obviously it's
15 going to be no surprise that we very strongly oppose this. As Mr. Farber pointed out, the
16 county government has contributed to the resolution of the FY10 budget. In the tax
17 supported, we had negative growth. With the council's actions even before this, that would
18 go down even more. I'd point out that this is a 20% increase in lapse. That's gonna have a
19 few, as Mr. Farber pointed out, that's gonna have consequences. Among those
20 consequences will be further stressing the workforce because we're gonna have to delay
21 hiring and filling positions. Already we have folks with the existing hiring freeze doing 2 or
22 more jobs, and it's gonna affect services as well as we're not gonna have positions there
23 to provide services to our residents, and it also, in effect, I think one way to think about
24 this, is it's building in a savings plan into the FY10 budget already, so it's taken away that
25 margin we could have or could resort to during '10 if conditions further deteriorate or
26 during FY10 we determine that we need a savings plan to address the FY11 budget,
27 so...and I would just add to this the council did approve a \$1.875 million cut as part of the
28 MC311 project. Those savings we're gonna have to find, we're gonna have to implement.
29 That's gonna be, again, further stress on positions that would have to be abolished to
30 accomplish those savings, so is it doable? If that's your preparation, we would have to
31 adjust our hiring and our efforts to reflect that, but it will be very difficult to do that. Some
32 of the...this was based in part on the '08 and '09 savings plans, which, you know, we have
33 achieved, but achieved at a cost. For instance, the police department. They have lapsed
34 many civilian positions. Just in '09, they sort of held their breath. They managed within
35 their resources, but it was very difficult to do. To extend that 1 more year is really gonna
36 stress the workforce and put a big burden on services.

37
38 COUNCIL PRESIDENT ANDREWS:

39 OK. Your cautionary note is noted, but I will say that from the beginning of this budget, the
40 county executive and the county council have had the same framework, which is to
41 protect essential services in the safety net, to hold the line on tax rates, and to avoid
42 layoffs, and from the beginning, we've been on the same page with the county executive

May 13, 2009



1 on that. Every councilmember has been supportive of that approach as well, and that's
2 what we've been doing, and that's what we've been able to put ourself in a position to
3 accomplish through a lot of good work with the executive, with our staff, with the
4 community, and while lapse--increasing lapse is not desirable, I think it is better than any
5 of those alternatives that we have managed to avoid because this is a terrible time to lay
6 people off. We don't want to do that. We have a history of treating employees very well in
7 that regard and avoiding layoffs. We didn't lay off any employees in the recession of the
8 early nineties. We know that layoffs can be devastating, not only to the individual but to
9 their families, and have a very negative ripple effect on the community, and it's a very bad
10 time to be out there in the job market. We know that there's an increased demand for
11 essential services and for the safety net services because of rising unemployment, and
12 we know that the public feels squeezed, and this is not the time to raise tax rates, so
13 those have been the priorities, I believe, of both the county executive and the county
14 council throughout this budget, and I believe we've adhered to them, and we'll continue to,
15 but we understand that not all the choices are appealing, and we have to make some
16 tough choices. Thank you. Councilmember Floreen.

17
18 COUNCILMEMBER FLOREEN:

19 Thank you. On this particular issue, the lapse issue, I'd like to thank Mr. Farber for looking
20 into this. I had asked if you would be able to find a number that reflected what the current
21 actual lapse is. Now, as Mr. Elrich says, we get into this in some significant detail in Park
22 and Planning as we look at, you know, what the projected numbers are and what the
23 actual numbers are. Do you have an actual lapse number?

24
25 STEPHEN FARBER:

26 Well, I think perhaps the answer can be found on the reverse side of the sheet I've
27 provided you on fiscal '09 and '10 budgeted lapse. What you'll see for fiscal '10 in the total
28 tax support lapse is that lapse is--

29
30 COUNCIL PRESIDENT ANDREWS:

31 Does everyone have this handout?

32
33 STEPHEN FARBER:

34 I believe it's right under the...

35
36 COUNCILMEMBER FLOREEN:

37 It's the one that looks like this.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Yeah, OK.

May 13, 2009



1 STEPHEN FARBER:
2 It's, uh, I believe there was a clip attached. You got that? Yeah, it's underneath the
3 additional copy of the memo.
4
5 COUNCIL PRESIDENT ANDREWS:
6 OK I see. So is it...
7
8 COUNCILMEMBER FLOREEN:
9 Oh, it's attached, yeah. It's actually attached.
10
11 COUNCIL PRESIDENT ANDREWS:
12 Yeah, OK.
13
14 STEPHEN FARBER:
15 If you'll look at the reverse side, lapse in the second column from the right is 2.5% of total
16 personnel costs.
17
18 COUNCIL PRESIDENT ANDREWS:
19 Where are you again, Steve?
20
21 STEPHEN FARBER:
22 Again, I'm on the reverse side.
23
24 COUNCILMEMBER FLOREEN:
25 Page 2 of 2?
26
27 STEPHEN FARBER:
28 Yes. Mm-hmm. And down at the bottom, the column, 2 from the right, you see the figure
29 2.5%, and then go over to the left, and lapse is 2.5% of total personnel costs, so--
30
31 COUNCILMEMBER FLOREEN:
32 I know that's what was budgeted, but the question is, what is it really? Which, bless us all,
33 is not on this list. Anybody know? Joe?
34
35 STEPHEN FARBER:
36 I turn to Mr. Beach and Mr. Espinosa on that.
37
38 JOE BEACH:
39 I don't have any specific figure available. I wasn't anticipating the question, but I'd say to
40 the extent that a great majority of county government departments meet their budget that
41 the budgeted lapse is roughly equal to the actual lapse.
42

May 13, 2009



1 COUNCILMEMBER FLOREEN:

2 OK, so the answer is we don't know. And we are able to get greater detail from Park and
3 Planning. But it's a different operation. It's a Park's--That was a Park's conversation and a
4 little different, but it seems to me that...I want to point out, and I thank you. If you do the
5 math, and your summary was terrific, Mr. Farber, then if we are able to give a little bit or
6 find additional resources somewhere, we're down to basically \$2 million of adjustments to
7 the reconciliation list. If we wanted to preserve the housing initiative fund. That's really
8 where we are at this point, so I'd just--that's basically it's the difference between the 11.8
9 and the 9-point whatever it is, 9.9 or something, so it's a very close number. I know that
10 my colleagues are very supportive of our housing plan, and it's just a question of how we
11 make these hard choices, and I'll just point out to you, we could do this. We're very close,
12 and so I know we're not gonna resolve all this at this moment in time, but I thank you for
13 your looking at these issues because it's clear from the tracking report, every committee
14 has contributed to this effort, to find a way to address service needs while at the same
15 time making some very significant reductions in our spending. So I think that's--It's a real
16 tribute to everyone here, and this map demonstrates that we're really close to being able
17 to address that. I know we don't know what's gonna happen from the state. That of course
18 is the big wrinkle in our conversation. But at least with this particular element of the
19 budget, it looks like we're close to being able to preserve that, and if we can all find within
20 ourselves some way to reconcile our collective objectives as well. So this is a great thing,
21 great document, and very helpful, so thank you, and it seems to me that these
22 recommendations, pretty doable.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Thank you, Councilmember Floreen. I want to agree very much with your comment that all
26 the committees have worked hard to protect essential services. The committee that you
27 chair did an excellent job of coming up with a plan to restore bus service, for example,
28 which we heard a great deal from the community about, the negative impact some of the
29 reductions would have had, so I think that much good work has been done to respond to
30 those kinds of concerns about the impact of certain proposed cuts on services.
31 Councilmember Knapp is next.

32
33 COUNCILMEMBER KNAPP:

34 Mr. President, I appreciate the overview that we received. I just wanted to make an
35 observation as it related to funding...deferring the funding for I.T. for the college. I
36 understand as was presented by Mr. Farber that we have deferred similar items in other
37 budgets. The 1 point I guess I would raise is over the last 4 or 5 years, the committee for
38 reasons historically I can't fully explain, I.T. within the college has always kind of been
39 running behind the level we've been at many of our other departments and agencies, and
40 so we have been trying to slowly catch up, but I think if you look at it and say, well, we did
41 MCPS at a certain amount, we can kind of defer the college 'cause we did the same. We
42 were never funding them at the same level in the first place, and so I think the impact on

May 13, 2009



1 the college's I.T. program, to do a deferral of that magnitude would have much greater
2 consequences because they're much further behind, and so I think we could probably do
3 some of this, but I would caution us to not necessarily look at trying to take all \$3.5 million
4 because they're already in a hole and it becomes just a deeper hole that makes it that
5 much harder to get out of especially given the way their funding is structured from the
6 state. They're always kind of running a couple of years behind and never seem to be able
7 to catch up because they're always the last thing that gets addressed in the state's
8 education budget, and so I think it's an interesting idea. I would just urge us not to
9 necessary look at taking that entire number because I think it will have serious
10 consequences at the colleges because they're already behind the 8-ball.

11
12 STEPHEN FARBER:

13 Mr. Knapp, I think that's a good point and that's why I said up to 3.5 million just as on the
14 lapse I said up to 4 million, and on the reconciliation list, of course, we've never funded all
15 of it. The council does make choices, and indeed, you break down a number of the
16 options into pieces so that you can take one traunch or another traunch or whatever, so I
17 think it's really a matter of melding all of this together and finding the right balance, which
18 hopefully you'll be able to do within the next short period of time.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Thank you both. Council Vice President Berliner.

22
23 COUNCIL VICE PRESIDENT BERLINER:

24 Mr. Farber, help me with this document, if you would, on page 1--I guess it's B, circle B,
25 the resource changes since April 20, 2009. I look at the bottom of that page and I see
26 10,000,200, and I don't know the relationship of that to your first page and your first line
27 where you say that we are 10.4 million less than the executives. What's the relationship
28 between that 10.2 and the 10.4 number that you identify?

29
30 STEPHEN FARBER:

31 Right. The 10.2 million, this is less in resources than the executive. If you'll look on circle
32 A, you will find that very same number.

33
34 COUNCIL VICE PRESIDENT BERLINER:

35 Say it again.

36
37 STEPHEN FARBER:

38 You will find that same number on line 20 on circle A. That's where that line appears, and
39 again, as you work all of this through, the resources on the 1 hand, that we have less than
40 the executive, and the reductions that we have made that are more than the executive.
41 What that comes out to on Mr. Sherer's spreadsheet shows up on line 37, and that is
42 where you see that we are currently at 10.4 million in the circled figure on the right less in



May 13, 2009

1 our aggregate operating budget at the present time than the executive is in his budget. So
2 these numbers...the resources number is part of the picture, but you have to take it
3 through the expenditure side as well, and that's where you come out with that 10.4 million
4 in line 37.

5
6 COUNCIL VICE PRESIDENT BERLINER:

7 Thank you, and so one of the things I was looking for is where the council has reduced the
8 budget for our expenditure on electricity and energy by a million dollars. Where would I
9 find that?

10
11 STEPHEN FARBER:

12 Yes, and again, our folks have done a great job in keeping up with all of that and you will
13 find that on circle 7. Down at the bottom in line 228.

14
15 COUNCIL VICE PRESIDENT BERLINER:

16 Got it.

17
18 STEPHEN FARBER:

19 And again, the great thing about our tracking system is that it picks up the myriad actions
20 that you take including one of the more recent ones at your suggestion, which is this one.

21
22 COUNCIL VICE PRESIDENT BERLINER:

23 With respect to your observation about the reconciliation list that we normally don't take all
24 the items on a reconciliation list. It would also be fair to suggest that normally we have a
25 much larger reconciliation list than we do this year, isn't that correct? What did we have
26 last year on the reconciliation list? Do you remember?

27
28 STEPHEN FARBER:

29 I don't recall. It might well have been in the area of \$20 million. We have had in the past
30 sometimes reconciliation lists of 40 million and 50 million, so your point is well taken. This
31 is a very small one by comparison.

32
33 COUNCIL VICE PRESIDENT BERLINER:

34 It's a very small one, and I believe that my colleagues have been very careful not to put
35 items on the reconciliation list that we didn't feel very strongly about, and particularly as
36 you observed previously, the number of safety net related items on the reconciliation list is
37 extraordinarily high, so this year maybe we may find that we would take a much higher
38 percentage for--obviously not everything--but a much higher percentage off the
39 reconciliation list than in years past.

40
41 STEPHEN FARBER:

42 I think that's exactly right for the reasons you mentioned.

May 13, 2009



1 COUNCIL VICE PRESIDENT BERLINER:

2 Thank you, sir.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you. I don't see any other questions or comments at this point about the overview,
6 so thank you very much for an excellent job, and we'll now move on to the consent
7 calendar, which includes the introduction suspension rules action on the election returns
8 from the village of Drummond, which I think one of our colleagues had the honor of
9 helping to close--

10
11 COUNCIL VICE PRESIDENT BERLINER:

12 I can speak, Council President, to the fact that in Friendship Heights, we run clean
13 elections. I was personally there to ensure that the ballot box was not stuffed to begin with
14 and was there to verify the vote totals at the end.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Very good. All right. And we have the results before us. We also have introduction on
18 supplemental appropriation of county government's FY09 operating budget for the
19 department of transportation, division of transit services, \$382,000 for the transit security
20 grant program, source is a federal grant. We got a public hearing and action on that for
21 June 9. We've got action on the resolution to amend the FY10 transportation fees,
22 charges, and fares. The T and E committee recommended approval of with amendments.
23 We've got on D action on resolution to revise taxi cab fares, which T and E committee
24 recommended approval with amendments. Action item E on the consent calendar is a
25 resolution to establish FY10 solid waste service charges. The T and E committee has
26 recommended approval of that. Action F is resolution to establish FY10 water quality
27 protection charge, and the T and E committee has recommended approval with
28 amendments, and G is action resolution to approve the WSSC system development
29 charge. T and E again. And that is the consent calendar, so is there a motion to approve
30 the consent calendar? [Indistinct] OK. Yes. It's been--you're right. That is correct. It is
31 before us on the committee, so we are ready then--well, the village of Drummond one--
32 was one that came directly, so there's a motion--OK, moved by Council Vice President
33 Berliner, seconded by Councilmember Floreen to approve the consent calendar. I don't
34 see any comments. All those in favor of the consent calendar please raise your hand.
35 That is unanimous, 8-0. The consent calendar is approved. We don't have any bills for
36 introduction, I believe. Is that right? OK, and in terms of calls for bills for final reading, I
37 announced earlier that we're deferring expedited bill 15-09, the recordation tax used for
38 revenue, until we hear back from the state about the memorandum, the waiver request on
39 the... maintenance of effort. And we're deferring the development impact tax bill as well at
40 the recommendation of MFP committee. So what we have remaining on the call of bills for
41 final reading is expedited bill 16-09, Room Rental and Transient Tax Amendments. The

May 13, 2009



1 MFP committee is recommending approval with amendments, and I'll turn to the chair of
2 the MFP committee, Councilmember Trachtenberg.

3
4 COUNCILMEMBER TRACHTENBERG:

5 Thank you, President Andrews, and as noted, the first item on the agenda will be up for
6 discussion next week. There is a committee recommendation, unanimous
7 recommendation, and the last item is gonna be readdressed in an MFP work session at
8 the end of June, and we would hope that council action would take place on it at some
9 point in July. But getting to expedited bill 16-09 on Room Rental and Transient Tax
10 Amendments, it was sponsored by the council president at the request of the executive.
11 Basically it would expressly require brokers of sleeping accommodations, mainly internet
12 booking agencies, to collect and remit the county hotel/motel tax. It would also generally
13 update the hotel/motel tax law's archaic language which hasn't been revised in many
14 years. One of the recommendations provided by the committee is, well, was to make the
15 bill effective on June 1 of this year. So that would be again in summary form what the bill
16 would do and the recommendation from the committee is to enact with the amendment as
17 provided to you just moments ago.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Thank you very much for the report. I don't seen any questions or comments on expedited
21 bill 16-09, so the clerk will call the roll.

22
23 CRYSTAL BROCKINGTON:

24 Mr. Elrich.

25
26 COUNCILMEMBER ELRICH:

27 Yes.

28
29 CRYSTAL BROCKINGTON:

30 Ms. Trachtenberg?

31
32 COUNCILMEMBER TRACHTENBERG:

33 Yes.

34
35 CRYSTAL BROCKINGTON:

36 Ms. Floreen?

37
38 COUNCILMEMBER FLOREEN:

39 Yes.

40
41 CRYSTAL BROCKINGTON:

42 Mr. Leventhal?



May 13, 2009

1 COUNCILMEMBER LEVENTHAL:

2 Yes.

3

4 CRYSTAL BROCKINGTON:

5 Ms. Ervin?

6

7 COUNCILMEMBER ERVIN:

8 Yes.

9

10 CRYSTAL BROCKINGTON:

11 Mr. Knapp?

12

13 COUNCILMEMBER KNAPP:

14 Yes.

15

16 CRYSTAL BROCKINGTON:

17 Mr. Berliner?

18

19 COUNCIL VICE PRESIDENT BERLINER:

20 Yes.

21

22 CRYSTAL BROCKINGTON:

23 Mr. Andrews?

24

25 COUNCIL PRESIDENT ANDREWS:

26 Yes. The bill is approved 8-0. Bill 16-09. All right, we will have-- We do have other bills for
27 final reading, and they are items 11, 12, and 13, but we're gonna have a work session
28 action first before we get to those. Compensation benefits for all agencies, and council
29 intentions regarding collective bargaining agreements. So we're now gonna go to item 7,
30 which is compensation benefits for all agencies, and all these next measures went
31 through the Management Fiscal Policy Committee, and I will turn to the chair of the
32 committee again for her comments on these matters.

33

34 COUNCILMEMBER TRACHTENBERG:

35 OK, thank you, President Andrews. Well, these, again, are the meaty issues that come
36 before the Management and Fiscal Policy Committee. Before I begin, some brief remarks
37 on each item--items. I want to acknowledge the work of my 2 colleagues, Councilmember
38 Ervin and Council President Andrews. We had a lot of dialogue over everything before us
39 this morning. Countless work sessions, a lot of back and forth, including some this very
40 morning on some issues relating to compensation benefits, but I am very comfortable with
41 the recommendations that are being provided by the committee, and I also want to
42 acknowledge that there was strong consensus in the committee for most of the

May 13, 2009



1 recommendations that I'm gonna provide to you, and I have said quite publicly that it isn't
2 often that I am bringing unanimous recommendations on compensation issues, but today
3 I'm bringing you quite a few, and I'm actually very proud of that and proud of the work that
4 was done in the committee that I chair. The first item as outlined by the council president
5 is an overview of compensation benefits for all the agencies. I know Mr. Drummer and
6 Farber are here to help us walk through this conversation. Obviously a lot of what we're
7 talking about is very much dependent on the State Board of Education approval of our
8 request for the \$79.5 million waiver relating to the maintenance of effort and obviously
9 that's--we're still not quite sure where we are with that. However, if you look on the packet--
10 -again, we have probably 2 packets you could utilize for this morning's discussion. One
11 would be the brief summary which is dated for today, and then of course the April 20
12 packet which was used for the committee discussion. I'm gonna reference it, although I'm
13 not gonna read from it. The pay changes are on pages 1-6 of the 20th packet. If you want
14 to go back that far, you could also look on page 6 of today's packet, which has a good
15 summary of the pay issues, and obviously the county's approach this year was to fund
16 agency service increments for which about 2/3 of the employees overall are eligible but
17 not general wage adjustments. For county government, the recommendation was to
18 support funding for the FY10 increments requested for both represented and non-
19 represented employees. Approve the following recommended FY10 salary schedules, and
20 they're listed on pages circle 25-31 of the April 20 packet, and they would include the non-
21 represented employees, the leadership service, medical doctors, seasonal workers,
22 MCGEO, sheriffs, police management, FOP correctional management and officers, and
23 also we would recommend approving the corrected salary schedules for fire and rescue
24 management and the fire and rescue bargaining unit, and that is on circle 2 of today's
25 packet. For Maryland National Capital Park and Planning our commission supports
26 funding for the FY10 increments requested for represented and non-represented
27 employees including funding within the budget for pay changes still to be determined. With
28 regard to the projected 3.75% COLA for the park police in FY10, we are recommending
29 that we reduce the budget by \$212,600, the cost of the COLA, and leave to the
30 commission the decision as to where this reduction should be taken. For Montgomery
31 College, we recommend supporting the full funding for the FY10 increments requested for
32 both represented and non-represented employees. For MCPS, support funding for the
33 FY10 increments requested for both represented and non-represented employees, and for
34 WSSC support funding for the FY10 increments and comparable increases requested for
35 represented and non-represented employees. Do I have any questions on that?

36
37 COUNCIL PRESIDENT ANDREWS:

38 Not at this point.

39
40 COUNCILMEMBER TRACHTENBERG:

41 No--OK. So I'm gonna go through the retirement program. The committee reviewed a
42 range of issues including the county contribution to the defined benefit employees



May 13, 2009

1 retirement system and the amount for the defined contribution, RSP, and the
2 recommendation from the committee was to approve the recommended county
3 contribution of 115 million for the ERS and 20.1 million for the RSP and approve the FY10
4 budgets of the 3 retirement plans. And again, they would be--you would find them on
5 circle 24 of the packet from April 20. Questions?

6
7 COUNCIL PRESIDENT ANDREWS:
8 Not yet.

9
10 COUNCILMEMBER TRACHTENBERG:
11 No? OK. FY10 county government compensation-related NDAs. We reviewed 7 NDAs.
12 They also are in that April 20 packet that I referenced, and the recommendations from the
13 MFP committee include approving the first 3 NDAs, which reflect annual county
14 obligations. Approve the group insurance for retirees consistent with the recommendation
15 on group insurance. Approve the compensation employee benefits adjustment NDA in the
16 amount of \$1,335,890, including the component parts that were broken out in an earlier
17 packet that was provided on April 20. There is 1 exception. For employees in
18 management leadership service who are not at maximum salary make the 1% or 2%
19 performance based on some awards which the executive recommends. Do not approve
20 the retiree health benefits trust NDA, and that is a large \$60 million number for the general
21 fund, and this approach, actually, is consistent with the executive's recommended budget
22 adjustments that were provided on April 20, and do not approve their productivity
23 enhancements and personnel cost savings NDA, which represents OMB's estimate of
24 FY10 savings from the proposed 2009 retirement incentive program. I would note for my
25 colleagues that there was a preference provided by the executive branch in a memo from
26 Mr. Beach, which is on circles 3 and 4 of today's packet. They are requesting that the
27 estimate in the RIP savings be done by department, and obviously we'll be having a
28 further conversation about the incentive program at the end of this morning's work
29 session. So in a nutshell, those are the retirement program recommendations from the
30 MFP committee. If there are no comments or questions, we'll go on to group insurance.

Deleted: Fripp ?????

31
32 COUNCIL PRESIDENT ANDREWS:
33 Keep going.

34
35 COUNCILMEMBER TRACHTENBERG:
36 Support the agency group insurance funding request for both active employees and
37 retirees. Again, you can go back to the April 20 packet for further definition on this action.
38 County government approved the recommended expenditures of the employee health
39 benefits self-insurance fund also outlined in the April 20 packet. With regard to the retiree
40 health insurance prefunding OPEB approve the executive's recommended April 20 budget
41 adjustments, and these adjustments eliminate the FY10 tax-supported OPEB
42 contributions for county government, Montgomery College, Park and Planning, and

May 13, 2009



1 reduce the MCPS contribution to 12.-- well, actually 12 million. And one thing that we have
2 discussed, we did last week, and we've discussed several times within the committee is to
3 make another public commitment to reviewing, again, health plans and basically other
4 options for our agencies to consider. We're hoping to begin that conversation at some
5 point this summer or maybe in the early autumn, but again, those would be the
6 recommendations on group insurance. In terms of compensation issues the committee
7 discussed the management reviews and similar reports that are prepared by agencies.
8 And we also reviewed the funding requests and approved them as well for employee
9 awards and tuition assistance programs. So that is the complete recommendation from
10 the management and fiscal policy committee.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Thank you very much for those recommendations, and before I go any further, I want to
14 say, because I had a first-hand seat, that I believe the chair of the MFP committee did an
15 excellent job in reviewing not only all the budget items that came through MFP, which
16 were many, but also in reviewing the different aspects of the Compensation Benefits and
17 Collective Bargaining Act. I think you deserve a lot of credit for your leadership of the
18 committee.

19
20 COUNCILMEMBER TRACHTENBERG:

21 Why, thank you for that. Guess we'll move on to the resolutions that are specific to the
22 collective bargaining agreements for the Fraternal Order of Police, the IAFF, as well as
23 MCGEO. I would call to my colleagues' attention the packet prepared for agenda items 8,
24 9, and 10. I would also remind colleagues that there are some summaries in this packet
25 for reference purposes that might be useful. The OHR summary on MCGEO is on page
26 12, the summary on FOP is on 32, and the summary of the IAFF agreement, which just
27 came to us, is on page 49, and I think it's important that my colleagues know those
28 summaries are there. I'm gonna walk us through the packet that was prepared by both Mr.
29 Faden and Drummer. And I would take you probably to the second page right off the bat,
30 and I would suggest that what I'm gonna do is actually go through the items in order of
31 resolution. The first resolution before us is actually for the Fraternal Order of the Police.
32 And the FOP lodge 35 entered into a concession agreement with the executive that
33 postponed the COLA and I believe that would be at 4.25%. Another issue related to police
34 officers receiving 3 more personal leave days each year, and the committee
35 recommendation was to approve that provision. There was also a staff recommendation to
36 require the CAO to report monthly on the amount of overtime needed to maintain regular
37 operations in affected departments, and that was taken as a recommendation. And the
38 last item which we're gonna talk about at some length I would think perhaps would be the
39 other part of the agreement which relates to the utilization of personal patrol vehicles, and
40 for my colleagues, I would refresh memory on current policy which is that PPVs are a full-
41 use vehicle which can be driven both on and off duty. Typically they're assigned on
42 seniority, and each officer who successfully completes probation in the police officer 1

May 13, 2009



1 rank and lives in the county is eligible for a PPV. What came over to us as an agreement
2 item was that a PPV would be assigned to an officer who lives outside the county within
3 15 miles of the border. There is a map on circle 42 which shows that 15-mile radius, and
4 in subsequent conversation around this particular item, there were many questions raised.
5 I would say the bulk of the questions were really specific to the cost estimate of the
6 initiative, the executive branch had provided to us a placeholder of \$237,000 as the cost
7 to implement the program. We asked our staff, and very ably Linda McMillan came up with
8 some numbers which suggested that that \$237,000 placeholder amount could easily be in
9 the range of millions of dollars. In fact, she even outlined it. It could be as much as \$11
10 million. So there was quite a bit of dialogue about that. I raised some issues around
11 liability in terms of the fact that when vehicles taken out of state, there might indeed be
12 other insurance liabilities that we would need to really have more information on. There
13 was additional conversation on possible tax consequences of an employee's personal use
14 of a PPV outside the county, and the unanimous recommendation of the MFP committee
15 was to defer approval of the amendments to article 35 of the agreement until the
16 executive branch is able to provide to us--will explain to us how and at what pace the
17 revised program will be implemented and how much the actual cost will be, and we also
18 would request additional information and evaluation of liability and federal and state tax
19 implications of the amendments, and I would stress again for my colleagues that the
20 recommendation on the personal patrol vehicles was a unanimous decision from the
21 committee. I assume there are questions and comments.

22
23 COUNCIL PRESIDENT ANDREWS:

24 No, there aren't. I would say you did an excellent summary. Just I would add 1 other point,
25 and that is there's also a concern about the policy itself and the effect it would have on our
26 current successful policy that provides a personal patrol vehicle which is a policy that I
27 think makes a lot of sense for officers that live in the county because it enhances police
28 presence in communities within the county, and the concern was this would remove that
29 incentive that is there now to stay in the county and to have--and the benefit that the
30 public gets from that police presence is tangible, and we don't want to lose that. So that
31 was another issue that was raised, but you summarized committee discussion very well
32 and the committee recommendation. Any other questions?

33
34 COUNCILMEMBER TRACHTENBERG:

35 Yeah, that would be the standing recommendation on the concession agreement with
36 FOP.

37
38 COUNCIL PRESIDENT ANDREWS:

39 OK.
40

May 13, 2009



1 COUNCILMEMBER TRACHTENBERG:

2 And I do not see any hands or lights, so we'll move on to the concession agreement with
3 IAFF, and as I noted in my opening remarks, this was the last agreement that came over
4 to us from the executive branch. There would be a postponement of the COLA, the 4%,
5 and there were some additional conditions on that. One would be that employees at the
6 top of their pay grade would receive 60 hours of compensatory leave in FY10. If you need
7 additional detail on that, it would be on circle 6 of today's packet. There was an agreement
8 that an ex officio member representing IAFF would be placed on the Board of Investment
9 Trustees, and there was also a provision which would allow 48 personal leave hours a
10 year, and it wouldn't be limited to FY10. The recommendation from the committee on that
11 was to approve that as well. Council staff recommendation was to again require the CAO
12 to report monthly on the amount of overtime. So in effect that is the set of
13 recommendations that come from the MFP committee that are specific to the agreement
14 that was reached with IAFF.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Councilmember Ervin has a question or comment.

18
19 COUNCILMEMBER ERVIN:

20 First of all, let me just piggyback on the comments by the council president on Chair
21 Trachtenberg's leadership on the MFP committee. I think she's done an outstanding job
22 taking us through a very difficult set of circumstances with this budget, so we appreciate
23 your leadership. I know that it has not always been easy, but I think we're getting to the
24 place where the council has been well served by the deliberations in committee, and so
25 that's bringing me to this question, Chair Trachtenberg, regarding the PPV.

26
27 COUNCILMEMBER TRACHTENBERG:

28 Mm-hmm?

29
30 COUNCILMEMBER ERVIN:

31 My question has to do with how long are we going to wait to hear back from the executive
32 branch on this item.

33
34 COUNCILMEMBER TRACHTENBERG:

35 I gathered from the conversation that was in the committee that there was an expectation
36 that it would be addressed during the collective bargaining process that's gonna take
37 place in the autumn. I think that was the sense that I had as I left the committee. In other
38 words, we weren't giving any specific timetable over it because there was a consensus
39 that it was going to no doubt be part of the conversation when new contracts were
40 entertained in the autumn of this year.



May 13, 2009

1 COUNCILMEMBER ERVIN:

2 OK, I think that's really an important point because I would like to get some information
3 back prior to the fall, and I'm wondering if we were able to write that into our committee
4 recommendation that there are some time constraints on this or time limits.

5
6 COUNCILMEMBER TRACHTENBERG:

7 And also I mentioned earlier at the work session this morning that I wanted to send a letter
8 over relating to different compensation issues prior to the discussions. Again, not
9 requesting that certain things be agreed to, but just itemizing the different issues that have
10 come up before the committee that we know we will have to re-address at some point
11 before next year's budget.

12
13 COUNCILMEMBER ERVIN:

14 Right, but I want to close by saying this, that every day, more and more information
15 becomes available to us that did not come to us through the executive branch, and
16 because of that, I think that we could have resolved this issue in committee or at full
17 council, and so I see Mr. Adler came to the table, and I'm wondering if there's any way we
18 can get access to some of this information prior to the fall.

19
20 JOSEPH ADLER:

21 For clarification, if the 15-mile usage of police automobiles is "deferred" and is not acted
22 on, it would trigger-- it would null the agreement that you have in front of you and would
23 trigger the second provision of bargaining, so that it would--a deferment is not without
24 some consequences.

25
26 COUNCILMEMBER TRACHTENBERG:

27 In fact, I understand that, and I thought as we left the conversation on the agreements, we
28 would talk about what needed to happen, and that was gonna be precisely where I was
29 gonna go.

30
31 COUNCILMEMBER ERVIN:

32 In terms of there being consequences, can you spell that out?

33
34 JOSEPH ADLER:

35 The FOP--if it's deferred and is not--deferment for a couple of days is one thing.
36 Deferment that it's not acted on, we have an MOU with FOP that goes into effect July 1,
37 so if 1 provision is stricken from there or is deferred, the FOP can exercise its rights, can
38 see that as a denial 'cause it's not effective July 1 and can exercise its rights to come to
39 the table and re-open the entire MOU, not just on that 1 issue.



May 13, 2009

1 COUNCILMEMBER ERVIN:

2 Thank you very much. And this is why I don't think it's as easy as deferment of the issue,
3 and so what's today, Wednesday?

4
5 COUNCILMEMBER TRACHTENBERG:

6 Right, but the likelihood that we would get adequate detail on the fiscal impact as well as a
7 thorough understanding of liability and tax implications, I think it was the judgment of the
8 committee, if I am not mistaken, that that wasn't gonna come to us by the time we agreed
9 to a final budget document, and I thought we had gone back and forth, and there was
10 some conversation. It wasn't perhaps lengthy, but there was some dialogue about
11 consequence, and I don't think Mr. Adler is suggesting, certainly to the 3 committee
12 members, something that we didn't really wrestle with when we had the discussion, but I
13 do recognize that the point raised by Councilmember Ervin is quite legitimate.

14
15 COUNCIL PRESIDENT ANDREWS:

16 OK.

17
18 COUNCILMEMBER ERVIN:

19 Did Mr. Beach have a comment? I saw you came...

20
21 JOE BEACH:

22 Well, just as far as the fiscal impact. I just note that council staff did do an excellent
23 analysis. She provided the council with 2 options, 1 of which, albeit on the low end, did
24 validate the fiscal impact that we provided to the council. We felt that there were too many
25 variables in terms of mileage and usage and attrition in the police department to provide a
26 more specific impact, and we were going to monitor it during the year to see if we have
27 additional information. Now, if we have to go back, as Mr. Adler said, and rebargain and
28 restructure the agreement, when we could provide that fiscal impact would depend on
29 when we could come to an agreement and what the terms of that agreement were.

30
31 COUNCILMEMBER TRACHTENBERG:

32 Right, and I know that when we talked about this in committee, and I'm sure both
33 Councilmember Ervin and council president recall we did ask--I did ask staff what could
34 be amended in the resolution language that would actually provide for a deferral, so I
35 wonder if Mike or Bob want to address that. In other words, what legally this body would
36 need to do in order to pull this out of the resolution and defer action on it, whether it be for
37 a week, whether it be 30 days or longer?

38
39 MICHAEL FADEN:

40 The resolution before the--

41

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Mr. Faden, can you move the mic a little closer to you? There you go.

3
4 MICHAEL FADEN:

5 Resolution for the council, which is on circle 62, 63, key language on circle 63 in your
6 packet does provide a deferral of this item. It does not give any specific date. Also, this
7 resolution, because it's a council action resolution, isn't necessarily tailored to directing the
8 executive, but you can certainly--if you could probably do that here, you could certainly do
9 that in the operating budget resolution to direct them to come back with the information
10 you're looking for by a given time. More broadly when you have this kind of last-minute
11 action, the process is structured so that sometimes this action will extend past the
12 operating budget approval dates. That's inevitable. We think really can't be helped.

13
14 COUNCILMEMBER TRACHTENBERG:

15 Did we not last year around the Board of Investment Trustees defer action on that as
16 well?

17
18 MICHAEL FADEN:

19 You did.

20
21 COUNCILMEMBER TRACHTENBERG:

22 Mm-hmm. OK. So we've done that before and typically we don't set a timetable, if I'm not
23 mistaken.

24
25 MICHAEL FADEN:

26 That's correct.

27
28 COUNCILMEMBER ERVIN:

29 But did that require a reopener, too? So you went back to the bargaining table--

30
31 MICHAEL FADEN:

32 In that case, the union did not opt to treat the deferral as a rejection. The reopener would
33 happen if the union, which I believe they're probably authorized to do under the law
34 because of the time schedule and the law. If they treat the deferral as a rejection, that
35 could trigger a reopener. In that case last year, that union did not do so. On this case, it's
36 also up to the union to decide how it wants to treat it. Whether this PPV provision is an
37 economic or a non-economic term of the agreement is relevant because Mr. Adler cited
38 the provision of the FOP agreement which reopens the entire agreement if an economic
39 term does not meet council approval, I don't know whether this would be considered an
40 economic term. We've also got questions as to the validity of that provision in light of the
41 common collective bargaining law, but that's a legal discussion probably for another day.



May 13, 2009

1 COUNCILMEMBER TRACHTENBERG:

2 Mm-hmm.

3
4 COUNCILMEMBER ERVIN:

5 So where are we on this? We're just-- the committee made its recommendation...

6
7 COUNCILMEMBER TRACHTENBERG:

8 Correct.

9
10 COUNCILMEMBER ERVIN:

11 ...which I concurred with at the time, but again, we're dealing in real time now, and every
12 day there's a new development, and I had a recent conversation with a member of the
13 FOP, which is why I'm bringing this up, so if we're comfortable with the FOP's option of
14 reopening this agreement to not only deal with this issue, but it could be others, and so if
15 this is the will of the body, we'll abide.

16
17 COUNCILMEMBER TRACHTENBERG:

18 To recap just so that we somewhat stay in order, it sounded like we were comfortable with
19 the resolution for an IAFF, and we jumped back to the FOP, and we now are looking at
20 the PPV policy, and no--given what the comments provided by my colleague, I would ask
21 for some input from the body as to, you know, what is the comfort zone with this. We do
22 have a standing committee recommendation to not support the PPV policy as outlined in
23 the concession agreement sent over by the executive--

24
25 COUNCILMEMBER ERVIN:

26 We didn't agree to not support it. We, the committee, recommendation to defer.

27
28 COUNCILMEMBER TRACHTENBERG:

29 To support it at this time, we defer it, but we did not give, as you note correctly, any
30 specific timetable on that, and as Mr. Faden outlined in the resolution, you know, there is
31 mention to that but without any specific information on a date when the executive branch
32 and FOP need to return anything to us.

33
34 COUNCIL PRESIDENT ANDREWS:

35 Right. I don't believe we gave a timetable last year either on the deferral on the Board of
36 Investment trustee issue, so this is not different from that. Councilmember Knapp.

37
38 COUNCILMEMBER KNAPP:

39 Mr. President, I just wanted to follow up, because I've gone through the packet and I've
40 heard the presentation from the committee chair that I understand we need additional
41 fiscal analysis or information from the executive branch, and I got to scratch my head a
42 little bit, because with everything we do we get a fiscal statement that lays out multiple



May 13, 2009

1 years as to what the assessment is from the Office of Management and Budget as to what
2 the implications for said actions will be, and so when we have something that is a fairly
3 concrete activity--we know how many police officers we have, we know how many
4 vehicles we need, and we can only get a \$237,000 number and we can't get anything
5 beyond that, I gotta kind of ask why? What--what--what...

6
7 JOE BEACH:

8 Well, as I just previously explained to the council, we felt there were too many variables
9 and the implementation of this program and including-- We know the number of officers,
10 but there's a lot of attrition in the officer ranks. They move in and out of the county, and
11 also mileage and usage is a big variable that would affect both the maintenance and the
12 use of fuel in this, and so we felt it was too speculative to provide anything more specific,
13 and as I pointed out before, Council staff estimate did on the low end validate our cost
14 estimate.

15
16 COUNCILMEMBER TRACHTENBERG:

17 Right, and I see that Ms. McMillan--

18
19 COUNCILMEMBER KNAPP:

20 So--so...

21
22 LINDA MCMILLAN:

23 Right. Just as council staff said to the committee that this was a highly unlikely scenario if
24 it would require that almost all of the current fleet cars be allocated as PPVs.

25
26 COUNCILMEMBER KNAPP:

27 I just--It kind of calls into--I mean, we have lots of fleet vehicles. We have lots of folks that
28 we do stuff--I mean, we've got--we do this all the time. I mean, this is...Presumably our
29 budget is based on these projections throughout what we've been approving, and now this
30 one we have lots of variables that we can't figure out beyond next year?

31
32 JOE BEACH:

33 I would only say that sometimes we can take assumptions that we're comfortable with. In
34 this case, it relies--we'd be speculating about changes in behavior that would result from
35 this expansion and the use of the program which we just thought would be something that
36 we more should monitor and track rather than guess at in the budget.

37
38 COUNCILMEMBER KNAPP:

39 Pretty much we just said it's gonna cost a quarter and it could cost a whole heck of a lot
40 more but we're not gonna say that because--Even though, even though I think we've been
41 chastised 3 times in the last 7 days from the county executive in various letters saying
42 don't do anything that will have great implications to next year's budget. Meanwhile, we

May 13, 2009



1 have a provision before us that could potentially have great implications for next year's
2 budget and beyond, and we have no assessment from the executive branch as to the
3 implications of that.

4
5 JOE BEACH:

6 OK, couple of things. First of all, I'm sorry you felt chastised by these memos, it's just the
7 executive--

8
9 COUNCILMEMBER KNAPP:

10 I didn't feel chastised. I'm pretty sure that was the language that was used.

11
12 JOE BEACH:

13 No. We meant to advocate for our priorities and defend the executive budget, which I think
14 we respected in this process.

15
16 COUNCILMEMBER KNAPP:

17 Ha ha ha!

18
19 JOE BEACH:

20 Just a couple of things to point out. We do not believe in Ms. McMillan's analysis. The high
21 option was acquiring additional vehicles. We did not think that that was necessary given
22 the current size of the police PPV and fleet that that would be necessary to implement the
23 term of this agreement. So yes, this could have larger out-year impacts, but at this time
24 we didn't feel like we could provide that with confidence.

25
26 COUNCILMEMBER TRACHTENBERG:

27 Mm-hmm.

28
29 COUNCILMEMBER KNAPP:

30 Mm-hmm.

31
32 COUNCILMEMBER TRACHTENBERG:

33 I see that Linda had wanted to make a comment and then Valerie had wanted an FOP rep
34 to actually make some comments, but, Linda, could you respond?

35
36 LINDA McMILLAN:

37 I just want to say I was asked to try to provide some fiscal parameters about this proposal
38 since we did not have anything other than a placeholder from the county executive, and
39 the fiscal impact that I provided was based on the current allocation of cars within the
40 overall police department fleet, and so I provided the committee with, frankly, a low end,
41 which was, in fact, about \$237,000, which assumed that no new cars would need to be
42 purchased, and it would assume that 183 of the current 281 fleet cars would have to be

May 13, 2009



1 allocated as PPVs. This would leave less than 100 in the general fleet. The general fleet
2 has to be available for all police officers who are not yet eligible to have a PPV because
3 they haven't completed their Police Officer I period and to have cars available for when
4 other people's cars are in for repairs or maintenance or other purposes. I don't have a
5 way, because I don't have access to the information, to know how many of the 280 cars
6 could be allocated, but I don't think you could be left with less than 100 in the general
7 fleet. But that's what you would have to do under the analysis that I provided to only be
8 looking at a mileage number that came to the 237. On the other end, I also said to the
9 committee, the other end was a highly unlikely scenario, which was that you would have
10 to buy all cars. You would have to go out and buy all these cars, and that got to a very
11 high number of \$11 million, which I did share with the committee. I thought was also very
12 highly unlikely. But the question is how many cars do you need to purchase? And it's a
13 number in between. I also did share with the committee that for the single officer fleet
14 vehicle program that money was approved in the FY09 budget it was assumed that 30 of
15 50 new cars being purchased would be needed for that, but all 50 are being allocated for
16 that, and because each new car is relatively expensive in the first year because you have
17 to equip it with radios and computers and the whole thing, it's about a \$50,000 cost, so
18 even if it's only 10 or 20 cars that you need to buy, given the fiscal constraints that you're
19 under in the budget, you know, that's a fair amount of money to be off by, and so the
20 question is, is it really something that would be a \$2 million or \$3 million cost, you know, to
21 add the right number of cars? That may be where it really is. It certainly isn't 200 in my
22 estimation. It certainly isn't \$237,000. It certainly isn't \$11 million. It is somewhere in
23 between, and I was not able to provide what that number might more reasonably be
24 because we didn't have any other information to share with you.

25
26 **JOE BEACH:**

27 If I could just add to that, our analysis of the police inventory of vehicles, including
28 assigned PPVs, fleet vehicles, and other time and material vehicles that they would be
29 able to manage within that current inventory to implement the provision of the
30 agreement...without adding additional cars.

31
32 **COUNCILMEMBER TRACHTENBERG:**

33 Well, I guess before we actually have a response from FOP, another issue that I would
34 just put on the table for colleagues, I had mentioned it in remarks earlier, that one of the
35 requests that I had made, and I believe I had made it on April 20, was for a review of the
36 liability implications of the provision, and I'd asked specifically that the county's risk
37 management staff provide that, and as far as I know, we still haven't received that report,
38 either, so there certainly is concern over the fiscal aspects of this, but also there was
39 concern raised on liability as well, and I think it's important to note that for public
40 conversation.

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Let me add, I think the placeholder, the amount that was provided there was just
3 completely inadequate in terms of what the council needs to make an informed decision
4 about the implications of this proposal, and under the law, we're required to receive a
5 fiscal analysis for any estimated costs of a provision, of a bargaining agreement, and we
6 haven't got it, and we need it, and we need it not just on this, but whenever there's
7 something that's in that range. This is just--we don't know the assumptions. They've not
8 been laid out. Our staff, Linda McMillan, did an excellent job in laying out what she
9 thought the assumptions were, and I will leave it at that.

10
11 COUNCILMEMBER TRACHTENBERG:

12 Mm-hmm.

13
14 DENISE GILL:

15 Good morning.

16
17 COUNCILMEMBER TRACHTENBERG:

18 An Introduction.

19
20 DENISE GILL:

21 Denise Gill with the FOP.

22
23 COUNCILMEMBER TRACHTENBERG:

24 Mm-hmm, mm-hmm.

25
26 DENISE GILL:

27 It's our position through the bargaining that there is no requirement to purchase new
28 vehicles to implement this program, and... that people who would otherwise already have
29 a car...they would just have extended use of the car and that vehicle implementation
30 would occur as it normally occurs, so people who reside in the county would get a car
31 first...under the normal PPV provisions. Purchasing new vehicles would occur normally as
32 it does now. So, if there needs to be a side letter written to clarify that this agreement
33 doesn't require the purchase of any new vehicles to implement it, then certainly we could
34 do that.

35
36 JOSEPH ADLER:

37 And that the MOU does not, again, does not require purchase of additional vehicles.
38 There are 2 programs for the police department. One is a single officer fleet vehicle
39 program, the other one is this PPV. This expands the PPV program but does not require
40 additional purchase, and under the MOU, the council can set a specific limit on
41 appropriated funds for this. Again, there's no requirement for language, so we maintain
42 that the low end--it may not be 257,000. It's certainly not gonna be somewhat high



May 13, 2009

1 because we're not required under--The county is not required to purchase additional
2 vehicles to implement the program. It's just the pool of folks available as the cars become
3 available is expanded.

4
5 COUNCILMEMBER TRACHTENBERG:

6 I wonder if we could hear from staff about beyond the purchase of vehicles, the other
7 operating expenses? In other words, there's something to discuss here around fiscal
8 obligation beyond just the purchase of vehicles. Am I correct, Linda? Maintenance and
9 insurance?

10
11 LINDA McMILLAN:

12 Well, this depends really on whether you're expanding the fleet. If you're not expanding
13 the fleet and the council could also specify what a number, that the current number of
14 PPVs is in fact the number of PPVs for fiscal '10 and then there would be no additional
15 cars. Then in fact if people were allowed to have full usage in the broader area, there
16 would be some additional mileage associated with that as Mr. Beach said, that it would be
17 a change in the--for every new car that you expand, you do have the \$50,000 initial cost,
18 and then you have a cost--in fact, the cost I had in my memo was an older one. I
19 understand--I had \$8,500 a year, but it's really closer to about \$10,000 a year of the
20 ongoing cost for operating a car, which consists of the fleet management charge-backs as
21 well as the mileage that's generally associated with a PPV, but the current collective
22 bargaining agreement does allow the council to set budgetary limits on the number of
23 PPVs, and if you wish to do that at the current allocated number, which is 716, which was
24 the number that the committees were provided with both in the police department budget
25 and the MFP budget, then you would not expand beyond that number.

26
27 COUNCILMEMBER TRACHTENBERG:

28 Well, I wonder if we can't entertain some language from staff that would do what is clearly
29 on the table right now as a potential solution here, and I would also state quite publicly
30 that it would seem to me, given that this issue was before the committee that I chair, I'm
31 not quite sure why we couldn't have had this conversation 2 or 3 weeks ago.

32
33 COUNCILMEMBER ERVIN:

34 Madam chair, again, as I said, a lot of this information keeps coming to us, and we're
35 dealing with it as we get it, and I appreciate your leadership here, but it seems to me,
36 thank you, Officer Gill, for coming to the dais, because this was bargained in the
37 agreement. The FOP, my understanding, is never had the intention of going out and
38 purchasing, having the county go out and purchase x amount of new vehicles. Anyway, I
39 think that you did a great job describing what actually occurred and your understanding of
40 what actually occurred in bargaining, and I want to thank our staff who brought all of this
41 to our attention in terms of how we figure out what the cost is going to be. I think we're in a
42 new decision point right now hopefully, and I appreciate you, Chair Trachtenberg, trying to



May 13, 2009

1 move forward to come to some resolution here because if we would have had this
2 information prior to today, maybe we'd have made some different decision.

3
4 LINDA McMILLAN:

5 I don't know whether also the intent would be for the side letter to address some of the
6 liability concerns because I believe that they're different--whether the officer is driving in
7 the county, in the state, or out of state, and I think that those were very important issues
8 raised at the committee level in terms of what the liability and the cost associated with
9 liability might be.

10
11 COUNCILMEMBER TRACHTENBERG:

12 Right, and tax implications, I think that was the other thing that was raised in the
13 committee as well. So I again would look to colleagues to see where people are at this
14 point, but I think it's clear that both Councilmember Ervin and I would be comfortable with
15 altering some of the language so that it's specific to the utilization of the current fleet but
16 not, you know, dependent on the actual purchase of additional vehicles.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Councilmember Elrich.

20
21 COUNCILMEMBER ELRICH:

22 It's been a really interesting discussion as a sidebar. I guess I would like information on
23 what is the optimal size or whatever it is you need for reserve for both people who aren't
24 PPI and a reasonable number of vehicles to keep in reserve for breakdown. I mean, I
25 have no idea what that is. I don't know whether 100 vehicles is gonna give you sufficient
26 coverage or if that's gonna create a problem. I think beside the discussion about a side
27 letter is absolutely appropriate and I'm glad that everybody is amenable to that because I
28 think that's key to making this happen. I think a lot of us looked at this as how are we
29 gonna buy all these vehicles, and somehow fit it in \$200,000 a year. That doesn't seem
30 very likely. But I do think we need more information, and I guess it's probably a silly
31 question, but does the county get to ever reopen if the thing costs a whole lot more than
32 you thought it was gonna cost?

33
34 COUNCIL PRESIDENT ANDREWS:

35 It won't cost more than the estimate because I will make a motion that I hope the council
36 will support that not a dime more than \$237,000 would be spent on it since that is the
37 fiscal estimate that we have from the executive about this program. We are gonna get this
38 information back, and we'll look at that in the context of the operating budget. I won't make
39 the motion at the moment, but--

40
41 COUNCILMEMBER ELRICH:

42 I was gonna say...

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:
2 Mm-hmm.
3
4 COUNCILMEMBER ELRICH:
5 I think it is frustrating to not know what the out-year costs are going to be without more
6 certainty than this because everybody keeps saying next year it will be worse, and no
7 one's expecting any remarkable return of revenues in the kind of quantity we need
8 anytime soon, so, well, adding a couple hundred thousand dollars a year is probably not a
9 big deal in the scheme of things; adding \$11 million a year would be a really big deal, and
10 it would be nice to know where the number lies between 200 and 11. It's a rather large
11 gap.
12
13 LINDA McMILLAN:
14 It was staff's comment that the number does lie in between the 2, and that the 11 million
15 was also unrealistic, so I do want to make sure you understand that.
16
17 COUNCILMEMBER ELRICH:
18 Yeah, but where it lies is important because 10 is also not very...
19
20 LINDA McMILLAN:
21 Very important.
22
23 COUNCILMEMBER ELRICH:
24 Right.
25
26 LINDA McMILLAN:
27 Because again, the cost of each car, especially when you have to purchase it, it adds up
28 very quickly. So the difference between 10, 20, or 30 cars can make a big difference.
29
30 COUNCILMEMBER ELRICH:
31 And speaking of information, is there any data on how long PPVs last versus how long the
32 other vehicles last? Do those vehicles need to be rotated more quickly than the vehicles
33 that aren't for PPV use?
34
35 LINDA McMILLAN:
36 We can get you the information on the replacement schedules.
37
38 COUNCILMEMBER TRACHTENBERG:
39 That would be useful.
40
41 COUNCIL PRESIDENT ANDREWS:
42 Yeah. Councilmember Knapp.

May 13, 2009



1 COUNCILMEMBER KNAPP:
2 Thank you. I appreciate the motion we're making, but I just want to say--
3
4 COUNCIL PRESIDENT ANDREWS:
5 No, it's not on the floor at the moment.
6
7 COUNCILMEMBER KNAPP:
8 OK, OK. 'Cause I guess what we asked for was some more information and since the
9 committee recommendation was deferral, but we had, I think, a more concrete request for
10 information as relates to a side letter as proposed by Officer Gill and fleet...replacement
11 schedules and all of those types of things, if we could actually get that information, since
12 we've deferred a number of things already, then we could probably actually be in a
13 position to make a better decision in the not-so-distant future. Those would seem to be
14 fairly concrete items that could be costed out and could be looked at and could be
15 presented back to the council I would assume in a fairly short time frame, I would hope.
16
17 COUNCIL PRESIDENT ANDREWS:
18 Yes.
19
20 COUNCILMEMBER TRACHTENBERG:
21 I wonder, can we get the letter from risk management, say, you know, by next Tuesday? I
22 mean, that would be fair. In other words, give us as much definition on the items that have
23 been raised in the last 10 minutes and provide it by Tuesday of next week and include the
24 letter from the FOP as well. I mean, obviously it would be useful if we could get it by the
25 end of the week, but even if we got the information by Monday, I think that might be
26 sufficient.
27
28 COUNCIL PRESIDENT ANDREWS:
29 Mm-hmm, I think so. All right--
30
31 MICHAEL FADEN:
32 I should just caution everybody that under the law, you've got to decide--
33
34 COUNCILMEMBER TRACHTENBERG:
35 Act on these by the 15th.
36
37 MICHAEL FADEN:
38 ...act on the resolution by the 15th. If you do defer in the resolution, you of course can
39 take it up at any time after that.
40
41 COUNCIL PRESIDENT ANDREWS:
42 OK, Councilmember Leventhal.

May 13, 2009



1 COUNCILMEMBER LEVENTHAL:
2 Well, a couple of things. First, parliamentary inquiry--what is now before the council?
3
4 COUNCILMEMBER TRACHTENBERG:
5 The recommendation of the committee and clearly it's evolving. No motion has been made
6 yet to alter it.
7
8 COUNCILMEMBER LEVENTHAL:
9 So the--I'll ask the chair of the MFP committee, and I appreciate her hard work, the simple
10 decision of the committee was to defer the matter of the PPVs, and that is what is now
11 before the council.
12
13 COUNCILMEMBER TRACHTENBERG:
14 Correct.
15
16 COUNCILMEMBER LEVENTHAL:
17 OK, thank you.
18
19 COUNCILMEMBER TRACHTENBERG:
20 What we're trying to define is how we are deferring it. If we are deferring it longer than just
21 a few days and it would appear to me from the fruitful conversation we've had what we're
22 really looking at is only deferring it till next Tuesday, and so now we have to decide in
23 terms of a mechanism. We have to define how we do this because we are required to
24 make a decision right now, by May 15, but we could change that.
25
26 COUNCILMEMBER LEVENTHAL:
27 OK, I'm always grateful for the in-depth work of Linda McMillan, but it does seem to me
28 that Linda McMillan has volunteered to answer a number of questions that more
29 appropriately the executive branch ought to be answering. So I just want to make that
30 general observation. You're sort of rushing in to say I'll get you that information, and it
31 seems to me it ought to be OHR, OMB, Chief Manger who ought to be getting us the
32 information. Along those lines, I have a question, and my question is, what are the take-
33 home vehicle privileges now available to officers who are not part of the bargaining unit,
34 management officers? I'd like an answer on that. I don't need it right now, but I mean, if
35 we're assembling--you know, we're asking a lot of questions, and--
36
37 COUNCIL PRESIDENT ANDREWS:
38 Right, I think that's a good idea. Let's assemble all the questions at one time and, uh, or
39 within the hour or 2 for--
40

May 13, 2009



1 COUNCILMEMBER LEVENTHAL:

2 Just on that point, were there arrangements or agreements made with officers in
3 management in return for getting these take-home vehicles? What's the nature of that? I
4 had a conversation with Chief Manger about that several days ago, so again, I'm not
5 asking for an answer right now, but as we're compiling information about this whole thing
6 and how it's going to work, I'd like to know how is it working now and what is the county
7 getting in return now for the take-home vehicles that are available for management
8 officers and precisely the rules with respect to officers in management in terms of being
9 able to drive outside the county and use the vehicles for personal use. Again, I'm not
10 asking for the answer to the question now. We'll assemble the answers to all these
11 questions, I guess, in 1 package.

12
13 JOE BEACH:

14 Some of that was in the packet, so...looking up the page number.

15
16 COUNCIL PRESIDENT ANDREWS:

17 OK, and if anyone has any other questions, please give them to me, and we will get them
18 over to the executive branch. Thank you. Councilmember Knapp?

19
20 COUNCILMEMBER KNAPP:

21 I just want to, at this moment, and I know the council president has done this through our
22 public hearing process and others, but to recognize the willingness of our employees to
23 actually engage in this dialogue with us, I think it's important as there have been lots of
24 characterizations over the course of the last many months, and I think that as we work
25 together collectively, we can get to solutions, and I think the last 40 minutes have been an
26 example of that, getting the right people at the table. The problem we've had has been
27 lack of information through intermediaries. It hasn't been a lack of willingness on the part
28 of people actually engaged in the dialogue, and so whether it's through COLAs or through
29 this discussion to get to a better resolution, I think people are willing to engage as long as
30 we're willing to communicate, and I just want to take this opportunity to thank our
31 employees and the representatives for doing that because I think that's helped us
32 basically get to the next point in this conversation, which hopefully will allow us to make a
33 decision. So I thank the council president, the chair of the MFP committee, and our
34 employees for allowing us to engage in that dialogue because I think it gets us to a much
35 better outcome for our county.

36
37 COUNCIL PRESIDENT ANDREWS:

38 Thank you, Councilmember Knapp. Councilmember Floreen.

May 13, 2009



1 COUNCILMEMBER FLOREEN:
2 Thank you. So I have a simple question. What is on--being proposed at this point is that
3 we defer this element until Tuesday in order to determine whether or not we agree with
4 this \$237,000 number?
5
6 COUNCIL PRESIDENT ANDREWS:
7 Well, we have 3 resolutions.
8
9 COUNCILMEMBER FLOREEN:
10 No, on this particular point. Is that-- I just want to be clear. That's what this is about?
11
12 COUNCIL PRESIDENT ANDREWS:
13 Yes.
14
15 COUNCILMEMBER ERVIN:
16 Yes.
17
18 COUNCILMEMBER FLOREEN:
19 That's it. OK. And we will get everybody--we will get the police to tell us that that they're
20 not asking for more vehicles and the county to tell us that that's their estimate, and Linda
21 to disagree. Is that right?
22
23 LINDA McMILLAN:
24 I'd be happy to agree if I knew what the assumptions were.
25
26 COUNCILMEMBER FLOREEN:
27 I'm just wondering what more information are we gonna get?
28
29 LINDA McMILLAN:
30 We're looking for information on the liability implications.
31
32 COUNCILMEMBER FLOREEN:
33 The liability of the provision. So we'll ask the county executive staff to tell us what their
34 estimate is?
35
36 LINDA McMILLAN:
37 We already requested from Risk Management--
38
39 COUNCILMEMBER FLOREEN:
40 So, but that's really it.
41



May 13, 2009

1 MICHAEL FADEN:

2 It involves both Risk Management and the County Attorney's Office to tell you long-term
3 what the risks are and the nature and extent of them from this expanded personal use of
4 county vehicles.

5
6 COUNCILMEMBER FLOREEN:

7 OK, so that's the discreet issue. That's all I want to know. Thanks.

8
9 COUNCIL PRESIDENT ANDREWS:

10 Thank you.

11
12 COUNCILMEMBER TRACHTENBERG:

13 Well, I'm assuming we can move forward on the concession agreement with MCGEO.
14 And I would note for my colleagues that there are items coming up for discussion later
15 relating to imputed compensation and the retirement incentive program, and rather than
16 raise those right now, I think it would be better to bring them up in the context of the bills.

17
18 COUNCIL PRESIDENT ANDREWS:

19 OK.

20
21 COUNCILMEMBER TRACHTENBERG:

22 Why don't I just go through the other agreements that were set with our MCGEO
23 leadership, and 1, I guess, item beyond the buyout and the imputed COLA would be
24 employees at the top of their pay grade would receive 60 hours of compensatory leave.
25 Again, that would be identical to what was agreed to with the IAFF. I also would
26 acknowledge--I forgot to do this as I began--that the COLA that was not taken would have
27 been, if actually exercised, it would have been for 4.5%, so that was what was given back,
28 and there were a series of things as I have suggested that were agreed to. Also there was
29 an agreement reached on representation on the Board of Investment Trustees for I guess
30 a 3-year term, and it's referenced on page 4 of the packet under the language of ex officio
31 members. And I think aside from the 2 items that I've raised about the imputed
32 compensation and the buyout incentive program, those would be, in a nutshell, what other
33 items were agreed to and the concession items provided to us by the executive branch.

34
35 COUNCIL PRESIDENT ANDREWS:

36 OK, all right, I don't see any questions at this point on that. I think we have the resolutions
37 before us--it's 7, 8, and 9. If I'm not mistaken, it would be in order now to--

38
39 COUNCILMEMBER TRACHTENBERG:

40 8, 9, and 10.

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:
2 I'm sorry. Yes, 8, 9, and 10. To take up the resolutions and then to continue with the rest
3 of the agenda. So, why don't we go back to resolution number 8, and Mr. Faden, you're
4 looking like you want to say something.
5
6 COUNCILMEMBER TRACHTENBERG:
7 It could wait until Tuesday.
8
9 MICHAEL FADEN:
10 Waiting to see where you go next.
11
12 COUNCIL PRESIDENT ANDREWS:
13 Oh, all right.
14
15 COUNCILMEMBER TRACHTENBERG:
16 Right.
17
18 COUNCIL PRESIDENT ANDREWS:
19 OK.
20
21 COUNCILMEMBER TRACHTENBERG:
22 Yeah, wouldn't it make more sense to, you know, come back to these once we've done
23 everything on Tuesday? In other words, I went through them--
24
25 MICHAEL FADEN:
26 No. Well--
27
28 COUNCILMEMBER TRACHTENBERG:
29 Oh, that's right. We have to do them. I keep forgetting. By May 15. So how do we handle
30 that, Mike?
31
32 MICHAEL FADEN:
33 Let me suggest, you can split them up 3 different ways. IAFF is just an approval. You
34 could do that. That has no complications. You could do that now if you want. FOP, the
35 only issue is the PPV deferral, which you've just discussed. You can do that one now if
36 you want. MCGEO, the only non-approval was the deferral of the retirement incentive
37 plan, which you're gonna discuss in the context of bill 10-09 shortly, so I would suggest
38 holding that one until you decide what you're gonna do on that issue in the context of the
39 bill.
40
41 COUNCIL PRESIDENT ANDREWS:
42 OK.

May 13, 2009



1 COUNCILMEMBER TRACHTENBERG:
2 Sounds like a plan.
3
4 STEPHEN FABER:
5 Mr. President, I'd amend that perhaps in just one respect. I think the IAFF agreement, in
6 fact, I guess all 3 had the imputed compensation in it.
7
8 COUNCIL PRESIDENT ANDREWS:
9 Correct.
10
11 STEPHEN FABER:
12 And that, I think maybe the best thing to do would be to take up the bills because there
13 you join the issues, and then you can circle back to the agreements, and whatever you
14 decide with respect to the bills, you can confirm in the agreements. I think that would be a
15 simpler way to proceed.
16
17 MICHAEL FADEN:
18 Good point.
19
20 COUNCIL PRESIDENT ANDREWS:
21 All right, well, let's do that. Let's move on to item 11 then.
22
23 COUNCILMEMBER TRACHTENBERG:
24 Which again has been the object of great conversation within the Management and Fiscal
25 Policy Committee. And we met again this morning. This item had been discussed 3 or 4
26 times in work session. There was, as Mr. Adler correctly noted earlier, a rather stern
27 request made by the committee chair that something be agreed to, and we received such
28 terms yesterday afternoon, and what I'm gonna ask is that Mr. Drummer actually walk us
29 through the packet of what was agreed to. In earlier conversation, the 1 recommendation
30 that the committee was able to identify was that we would add a group G to the bill for
31 IAFF, correct?
32
33 ROBERT DRUMMER:
34 That's correct, yes.
35
36 COUNCILMEMBER TRACHTENBERG:
37 That was the 1 thing that we were able to reach consensus on, but the general issue of
38 imputed compensation we had not, so if you could, Mr. Drummer, explain just very briefly
39 what was agreed to, and I know we have representatives from MCGEO here in particular,
40 and what I'm gonna suggest is that Mr. Renne come on up to the table. I have a feeling
41 he'll have some comments he'll want to make about this.
42

May 13, 2009



1 ROBERT DRUMMER:

2 Thank you. The bill as introduced provided for what we call imputed compensation, which
3 is the tail-end of the cost-of-living adjustment for employees in the defined benefit plan,
4 what we call the Employees Retirement System, the ERS. And it treats the regular
5 earnings for fiscal year '10 as if you got the wage adjustment, so in the defined benefit
6 plan, when you're ultimately--when you retire, your retirement benefit is based on your
7 years of service with a multiplier based on your 3 average--or your 3 highest years of
8 earnings. The...At the committee meeting, it became obvious that there was a
9 disagreement with MCGEO over whether this provision was to apply to their members
10 who are not in the ERS but were in the defined contribution plan, the retirement savings
11 plan. This morning we heard that there was an agreement between the executive and
12 MCGEO to create for the retirement savings plan the defined contribution members a one-
13 time for fiscal year '10 boost in the contribution. The county normally contributes 8%. The
14 boost would be an additional .36%. That's calculated at the normal 8% contribution times
15 the 4.5% cost-of-living that they postponed. Comes out to .36%. It would affect only fiscal
16 year '10--the fiscal year '10 contribution. It's a one-time contribution. And the committee,
17 uh... the committee bill, as it came out this morning, and it was just handed to you--I just
18 drafted it this morning--

19
20 COUNCILMEMBER TRACHTENBERG:

21 Ha ha! Thank you, Mr. Drummer.

22
23 ROBERT DRUMMER:

24 adds both--first, it adds Group G, the firefighters, which the Chair already mentioned was
25 agreed on unanimously. And all of their members, I believe are in the ERS, so they're
26 added to the original bill...and adds 2 new sections to make sure that the one-time
27 contribution that was mentioned that was provided for in this morning's agreement for
28 people in both the Retirement Savings Plan and the new Guaranteed Retirement Income
29 Plan, which is going to be set to begin July 1, would get that .36% additional one-time
30 extra credit in their account, essentially. So, that's what the bill does that's in front of you.
31 The amendments would add in the RSP and the GRIP and Group G. And...

32
33 COUNCILMEMBER TRACHTENBERG:

34 And there was a committee recommendation. It was 2-1, the Council President had a
35 different take--wanted to limit just to FY10, and I wonder if he wanted to make some
36 comments at this time.

37
38 COUNCIL PRESIDENT ANDREWS:

39 No, that describes it.

40

May 13, 2009



1 COUNCILMEMBER TRACHTENBERG:

2 Yeah, OK. And so that is the standing recommendation from MFP, which is basically to
3 support as revised the bill from the Executive Branch as agreed to--

4
5 ROBERT DRUMMER:

6 One thing I left out is we also got a fiscal impact statement this morning--

7
8 COUNCILMEMBER TRACHTENBERG:

9 That's right.

10
11 ROBERT DRUMMER:

12 We're adding the retirement savings plan. And the Executive has requested and the bill is
13 drafted to give the same .36% boost to nonrepresented employees in the Retirement
14 Savings Plan or the GRIP. The fiscal impact for that is--I should have mentioned this
15 earlier. The fiscal impact for that is believed 904,000 for both--

16
17 COUNCILMEMBER TRACHTENBERG:

18 903.

19
20 ROBERT DRUMMER:

21 903,000 for both represented and nonrepresented. However, the money is going to be
22 paid out of--going to be paid in the second pay period in Fiscal Year '11. So it's not
23 actually Fiscal Year '10 money. We're effectively advancing money from Fiscal Year '11,
24 this 903,000, to help balance the FY10 budget. And that's what the bill would do.

25
26 COUNCILMEMBER TRACHTENBERG:

27 Mm-hmm. Mm-hmm.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Thank you, Councilmember Trachtenberg. Council Vice President Berliner.

31
32 COUNCIL VICE PRESIDENT BERLINER:

33 I'm just trying to keep up here. So...the import of the agreement that was reached is that
34 the MCGEO. now will have a comparable benefit to that which was negotiated with our
35 firefighters. Is that the... substance of it, only arrived at differently? A comparable
36 economic benefit, not an identical benefit?

37
38 ROBERT DRUMMER:

39 Well, it's always impossible to compare precisely the defined benefit plan--the benefit and
40 the defined contribution plan. But the bill and the committee recommendation and the
41 agreement is the RSP people, it's a one-time payment--that they get it for FY10--in FY11,
42 but they get for FY10. It doesn't carry over into future years. In FY11, the 8% is not going



1 to include the...it's not going to compound upon the FY10 contribution. That's different
2 than the agreement in the bill for the defined benefit members. For them, the contribution
3 compounds. In other words, if you have a--your adjustment for Fiscal Year '10 earnings
4 will carry over throughout your career, because in FY11, when they calculate your
5 retirement earnings for FY11, they will--if you get a raise, an adjustment, it will be
6 compounded on top of the 4% or 4.25% or 4.5%, depending on your bargaining unit, that
7 you were credited with for FY10 and goes on. And that's how the actuary--that's in the
8 original packet--the fiscal impact of that was calculated by the actuaries for the plan is
9 depending on how long you amortize it is, I think, a little over 10 million per year. That's
10 just for the ERS for 15 years or 8.5 million for 40 years. And that's how that gets up there
11 so high, because it compounds. In other words, if you retire in 10 years from now, you will
12 continue to get--your 3 highest years will be higher than your actual salary because of this
13 bump, assuming nothing ever gets changed. And...you know, so there is a difference
14 between the two benefits, but the actual amount of the benefit for FY10 is calculated the
15 same way.

16
17 COUNCILMEMBER TRACHTENBERG:

18 Mm-hmm.

19
20 STEPHEN FARBER:

21 Yeah, if I could add to that point. I think Bob makes a very useful distinction between the
22 provision that applies to folks in the Retirement Savings Plan, which, is, as he indicated
23 for one year only. And then folks in the defined benefit plan, be they in MCGEO, the IAFF,
24 or the F.O.P., that applies on a permanent basis. All over the region, all over the nation,
25 COLAs have been--they have not been provided this year. In our understanding, what that
26 means for your pension calculation is that your benefit is not improved either. What we
27 have here on the table is, in that respect, very unusual because it preserves the pension
28 aspect of the COLA improvement. It's imputed. It's as though you have received it even
29 though you didn't. And as Mr. Drummer pointed out, it turns out to be very costly. If you
30 look on Circle 9 of the packet, what we have is the county's actuaries' number as to what it
31 costs. And because of the compounding effect that Mr. Drummer mentioned over time,
32 since it's not limited to one year only, the annual cost for 40 years is 8.6 million, or if you
33 go to a 15-year payment schedule, it's 10.7 million. This is an enormous amount of
34 money. It's not going to be available for pay increases or for any county services--safety
35 net or police or fire or anything else. And it's important to understand that. And if I
36 understood you, Mr. Andrews, correctly in committee, it was for that reason that you felt
37 that a one-year application of the defined benefits imputed compensation would be a
38 better decision, and that would make it consistent with what has been done for people in
39 Retirement Savings Plan, which, as Mr. Drummer pointed out, is also one year only. So as
40 I understood your position, that is the reason for it.

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:
2 That's right. OK, are there any other questions or comments? I don't see any, so thank
3 you for the explanation, Chair Trachtenberg. We are then ready for a vote, I believe, on
4 this bill, and the clerk will call the roll.
5
6 CRYSTAL BROCKINGTON:
7 Mr. Elrich?
8
9 COUNCILMEMBER ELRICH:
10 Yes.
11
12 CRYSTAL BROCKINGTON:
13 Miss Trachtenberg?
14
15 COUNCILMEMBER TRACHTENBERG:
16 Yes.
17
18 CRYSTAL BROCKINGTON:
19 Miss Floreen?
20
21 COUNCILMEMBER FLOREEN:
22 Yes.
23
24 CRYSTAL BROCKINGTON:
25 Mr. Leventhal?
26
27 COUNCILMEMBER LEVENTHAL:
28 Yes.
29
30 CRYSTAL BROCKINGTON:
31 Miss Ervin?
32
33 COUNCILMEMBER ERVIN:
34 Yes.
35
36 CRYSTAL BROCKINGTON:
37 Mr. Knapp?
38
39 COUNCILMEMBER KNAPP:
40 Yes.
41

May 13, 2009



1 CRYSTAL BROCKINGTON:
2 Mr. Berliner?
3
4 COUNCIL VICE PRESIDENT BERLINER:
5 Yes.
6
7 CRYSTAL BROCKINGTON:
8 Mr. Andrews?
9
10 COUNCIL PRESIDENT ANDREWS:
11 No. The bill is adopted 7-1. Our next bill will be 1909, Board of Investment Trustees
12 membership. MFP committee is recommending approval with amendments.
13
14 COUNCILMEMBER TRACHTENBERG:
15 OK, thank you, President Andrews. This bill has resulted, I guess, from the recent
16 collective bargaining agreement that was reached between the Executive branch and
17 MCGEO. It would create an additional ex-officio member and delete one member of the
18 Board of Investment Trustees who's currently nominated by an employee organization. It
19 would basically remove the member nominated by the organization certified to represent
20 the office professional and technical and the service, labor, and trades bargaining units.
21 Instead, the employee organization or organizations certified to represent these units
22 would nominate an ex-officio member who would be appointed by the Executive and
23 confirmed by the council. And this member would serve indefinitely as long as that person
24 remains the employee organization representative. And there were 3 amendments--3
25 issues that were raised within the committee discussion, but I'm not sure I need to go into
26 much detail on those. I would consider them to have been more technical amendments.
27 One of them related to retitling the bill itself. Am I correct, Mr. Drummer?
28
29 ROBERT DRUMMER:
30 Yes, we changed the long title of the bill, and we also changed--we kept the intent of the
31 bill and we just simply changed the naming of the member. The member in the original bill
32 was called an ex-officio member, as the 4 county officials. And in keeping with just the
33 term, that there weren't really ex-officio because they weren't being appointed because of
34 some office that they held. But the reason behind the agreement was to create a union
35 representative who would serve an indefinite term of office until they were no longer the
36 designee of the union. And so we just simply didn't call them ex-officio and changed the
37 bill but to give them the same indefinite term that they would have as an ex-officio
38 member. So the practical effect is the same, but they're not called ex-officio members.
39
40 COUNCILMEMBER TRACHTENBERG:
41 Mm-hmm. OK.
42



May 13, 2009

1 COUNCIL PRESIDENT ANDREWS:
2 Good.
3
4 COUNCILMEMBER TRACHTENBERG:
5 And in summary, that is the recommendation of the committee.
6
7 COUNCIL PRESIDENT ANDREWS:
8 Very good. Thank you. I don't see any questions or comments, so we are ready for a vote
9 on the bill. Will the clerk please call the roll?
10
11 CRYSTAL BROCKINGTON:
12 Mr. Elrich?
13
14 COUNCILMEMBER ELRICH:
15 Yes.
16
17 CRYSTAL BROCKINGTON:
18 Miss Trachtenberg?
19
20 COUNCILMEMBER TRACHTENBERG:
21 Yes.
22
23 CRYSTAL BROCKINGTON:
24 Miss Floreen?
25
26 COUNCILMEMBER FLOREEN:
27 Yes.
28
29 CRYSTAL BROCKINGTON:
30 Mr. Leventhal?
31
32 COUNCILMEMBER LEVENTHAL:
33 Yes.
34
35 CRYSTAL BROCKINGTON:
36 Miss Ervin?
37
38 COUNCILMEMBER ERVIN:
39 Yes.
40
41 CRYSTAL BROCKINGTON:
42 Mr. Knapp?



May 13, 2009

1 COUNCILMEMBER KNAPP:

2 Yes.

3

4 CRYSTAL BROCKINGTON:

5 Mr. Berliner?

6

7 COUNCIL VICE PRESIDENT BERLINER:

8 Yes.

9

10 CRYSTAL BROCKINGTON:

11 Mr. Andrews?

12

13 COUNCIL PRESIDENT ANDREWS:

14 Yes. The bill was adopted 8-0. And our final bill will be expedited bill 10-09, Personnel Retirement Incentive Program. MFP committee again.

15

16 COUNCILMEMBER TRACHTENBERG:

17 OK. Well, here goes, I suspect, an item that will generate some very animated
18 conversation, I suspect. Bill 10-09 was introduced back, I guess, the end of March. And
19 there have been, if I'm not mistaken, 4 MFP work sessions on this particular incentive
20 program. And basically what the bill would do is establish a Retirement Incentive Program
21 for certain members of the Employees' Retirement System. Group A, E, or H members
22 eligible for normal retirement as of June 1st of this year are eligible for early retirement
23 and within 2 years of meeting the criteria for normal retirement as of June 1st would be
24 eligible for this incentive program. The retirement incentive would be no reduction for early
25 retirement and an additional \$40,000 payment. In addition, the enhanced benefit multiplier
26 at social security age for a Group E member in the Integrated Retirement Plan currently
27 scheduled to take effect on July 1 would be effective on June 1st for a Group E member
28 who's approved to participate, and the members would have needed to apply by April 1st
29 and complete all their forms in early May. And this item generated a lot of dialogue. There
30 was, as I know my colleagues are aware and had the benefit of seeing a rather
31 persuasive presentation provided to us from the Office of Legislative Oversight, which
32 raised basic questions about fiscal feasibility. I think that would probably be the most
33 concise way to describe where the committee went in conversation. There was a
34 recognition that buyouts can be cost effective. Certainly, they are cost effective tool to
35 reduce compensation costs if they're implemented with a right sizing plan in place. And I
36 think it would be fair to say that there was a consensus on the committee that no such
37 plan really had been outlined. Back in March, when this was proposed, the Executive
38 branch indicated that the buyout was a necessity because it needed to create vacancies
39 for placement of employees who might lose their jobs due to reduction in force. And since
40 that time, I think it would be fair to say that the Office of Human Resources has been quite
41 successful in finding new jobs for nearly all the employees subject to the RIF. And there
42

May 13, 2009



1 are still about 130 vacancies remaining to accommodate the 30 or so employees that still
2 need a job placement. But clearly, the situation has changed since March. And again, that
3 was another factor that I think played in to the discussion as well as the ultimate decision
4 of the committee. But I want to go back to the statement that I made about the fiscal
5 impact, because I really think that is, in effect, the main reason why there is no
6 recommendation to go forward with this at this time. The recommendation from the
7 committee was simply to defer action. And one of the issues that was raised around fiscal
8 impact is that there could easily be a \$17 million price tag with this over the next decade.
9 Perhaps not 17 million, but it was pretty clear to us that this situation as outlined would
10 turn into a negative situation for the county within a year or 2 years' time. And given that
11 we are facing significant constraints, not just this year but beyond this year, the
12 committee's consensus was that we couldn't afford the program and be placing this kind
13 of additional burden on future year budgets. And so given that, we recognize that needs
14 have changed, that the cost was too high. We recommended and we do this morning that
15 the council defer action on this buyout until the Executive branch sends over a strategic
16 proposal and, again, one that we would consider to be cost effective.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Thank you for that very good summary. We had, as you said, a lot of conversation and
20 discussion about this in committee. And I think most councilmembers have followed it
21 closely and I think-- I sense that there is support for the committee recommendation to
22 defer this until we do get that strategic plan back.

23
24 [Councilmember Trachtenberg speaking indistinctly]

25
26 COUNCIL PRESIDENT ANDREWS:

27 So, unless there are any questions or comments, we will accept the committee
28 recommendation.

29
30 COUNCILMEMBER TRACHTENBERG:

31 OK, well, that's very good. And before I close, I actually want to make some comments,
32 again, acknowledging the effort of my colleagues and those that have participated in all of
33 our dialogue from the Executive branch. But I also wanted to take the time to
34 acknowledge the unions as well for their collaborative effort in all of this, because I know
35 these decisions were not easy ones. But we are facing a very difficult situation. And we
36 wouldn't be moving forward and have the comfort that we have, as difficult as it is, without
37 the cooperation and participation of our service unions--service employee unions. And I
38 wanted to just state that for the record. So, I do thank my colleagues for their support this
39 morning.

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Mm-hmm. Thank you for those words and your leadership, Councilmember Trachtenberg.
3 Mr. Adler, did you have a comment?
4

5 JOSEPH ADLER:

6 Just for the record that a deferral indefinitely would trigger the reopening with MCGEO
7 because, again, we assumed that this would go into effect June 1st. So, if there is a
8 permanent deferral, we would have to--it triggers with renegotiation. And we do have an
9 agreement with the union to look at each particular position and the union would
10 recommend whether they be filled or not and the CAO would approve. So there is the
11 beginnings of a process to determine whether positions need to be filled, but we are
12 unwilling at this point to give you a flat number because we, frankly, don't know what the
13 needs are.
14

15 GINO RENNE:

16 Mr. President, if I may.
17

18 COUNCIL PRESIDENT ANDREWS:

19 Go ahead.
20

21 GINO RENNE:

22 So there's no ambiguity, if this body chooses to defer, then the union's position is that
23 you're rejecting the agreement as negotiated and we will demand renegotiations on this
24 matter. Just so we're clear.
25

26 COUNCIL PRESIDENT ANDREWS:

27 That is clear. Thank you. OK. I think we now need to go back to the resolutions that are 8,
28 9, and 10, right? And we've gone through the legislation that's related to those
29 agreements. We have the 3. We are getting more information on the personal patrol
30 vehicle issue. Any questions, please assemble them--any additional ones--but we still do
31 need to act on the resolution as it has been before us by the 15th-- correct?--which is this
32 Friday. So we have the resolution before us, and that is a, um... So we are--and we have
33 a committee recommendation. So all those in favor of the resolution as described in the
34 committee packet that is contained in Item 8, please raise your hand. That is unanimous.
35 Resolution C, Item 9, is a resolution to indicate the council's intention regarding the
36 actions necessary to implement the collective bargaining agreement with Montgomery
37 County Career Firefighters Local 1664. I don't see any discussion on that, so all those in
38 favor of council's intention regarding the actions, please raise your hand. That is
39 unanimous. And the third is the resolution to indicate council's intention regarding the
40 action necessary to implement the collective bargaining agreement as described in
41 resolution that is in the packet before us. All those in favor? Unless there is additional
42 comment, please raise your hand. That is unanimous as well. OK. Thank you all. We are

May 13, 2009



1 not quite done, but I don't think we'll be here too much longer. And I hope to finish up in
2 the next 15 minutes to half an hour for our session today so that we don't need to come
3 back after a break. And so, if people will now turn to Items 14, 15, and 16 in today's
4 packet. Item 14 is action on supplemental appropriation and amendment to the FY09
5 through '14 Capital Improvements Program in the Montgomery County Government,
6 Property Use/Smart Growth Initiative. \$12,893,000 for the Public Safety headquarters, the
7 GE Tech Park building. The Public Safety and T&E committees met several times over
8 the last few months on this and have recommended approval with amendments. And I will
9 make a few comments and then I'll ask Linda McMillan if she has comments. I'll ask
10 Councilmember Floreen, who is the co-chair of the joint committee if she has any as well.
11 The committee recommendation is to support this supplemental appropriation for this
12 purpose. The committee believes this idea has... is one that is worthy of support, of
13 consolidating many of our public safety functions and some others out of leased space
14 and out of space that needs to be renovated into one headquarters that will meet those
15 needs for a long time. Previously, the council had given support to moving the liquor
16 warehouse to the existing warehouse on the adjoining property. And this is the property
17 that we know as the former National Geographic headquarters off Darnestown Road. The
18 facilities that would be moved into this would include the 1st district Rockville station, the
19 police headquarters, the headquarters for fire and rescue, and there's a longer list in the
20 packet. And I can ask for the Executive branch to go into more detail if the committees
21 wish, if council wishes. But, at this point, I'm going to turn to Linda McMillan to see if she
22 has any comments she wants to make about this. I don't believe there have been any
23 changes since the committee took its vote a week or two ago. I do know that I had asked
24 whether there was a memorandum of understanding that had been prepared and sent
25 over by the Executive to the city of Gaithersburg. I know that they are eager to know what
26 the Executive's position is on a number of issues--and I will ask that in just a minute--to
27 find the status of that. But Miss McMillan, do you have any comments?
28

29 LINDA McMILLAN:

30 Only that the committee's recommended funding schedule does clearly show how the
31 short-term debt would be retired over time through G.O. bonds, but the pdf language also
32 is there that if the Executive had other proceeds that they could attribute to this project to
33 reduce the short-term debt, that also is authorized through the pdf.
34

35 COUNCIL PRESIDENT ANDREWS:

36 That was a very key consideration. I'm glad you mentioned that. On page 6 of the packet,
37 it does outline what the Public Safety and T&E committees recommended in terms of a
38 funding schedule in order to allocate the funds' costs over a longer period of time so as to
39 help best ensure that there's no negative impact on other capital projects. And I believe
40 that the recommendation that Linda McMillan proposed was very good and it was
41 accepted by the committees. All right, are there any comments or questions?
42



May 13, 2009

1 COUNCILMEMBER KNAPP:

2 ...in general?

3
4 [Councilmembers chuckling]

5
6 COUNCIL PRESIDENT ANDREWS:

7 Um, well, yes. We are--before we vote, I want to know. If anybody would like to--

8
9 COUNCILMEMBER KNAPP:

10 This is our chance.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Yes, before we vote on this.

14
15 COUNCILMEMBER KNAPP:

16 OK. I just...I did not have an opportunity to participate in the joint committee last week. I
17 understand there were a number of good questions asked, and I just wanted to reaffirm,
18 because at this point last year we were having lots of discussions about making sure that
19 capital budget could be accommodated. And I think that this and, I think, the liquor
20 warehouse that we just got an update on this morning, are projects that make a lot of
21 sense. The difference is, the liquor warehouse is something that had already been within
22 the CIP, and so it was a great opportunity to take advantage of something we'd already
23 planned for. This one is something that we had not anticipated, not that there isn't a
24 question as to the need. Police headquarters is not a great place. And so with the
25 consolidation, all those things are good. But the reality is, um...Linda put together a very
26 good list on page 4 of all of the things that are out there that are not insignificant that are
27 going to be competing for these demands in the out years of the CIP. And I understand
28 that it was asked that we don't think that by doing this the way we have--and I commend
29 Linda for reallocating the resources over a 4-year period--that we're not going to impact
30 these important projects that the council established as priorities last year. And obviously
31 no one can bind anyone, but we need to have as much of assurance as possible, short of
32 having implementation rate of 20%, that we can actually keep these projects on track.
33 Because there are school communities, in particular the 4 high schools that we put off last
34 year and had recognized, that this potentially competes directly with them for those
35 renovations which are in at least as bad a shape, if not worse, than police headquarters.
36 And so, we need to feel pretty confident that this goes forward and doesn't necessarily
37 keep those from going forward.

38
39 JOE BEACH:

40 Yeah, if I could just speak to that. As I said in committee, we can't speak definitively to any
41 project schedule or commit because we have to hear from a number of people, including
42 MCPS on the their own recommendations and project schedules that they manage, but



May 13, 2009

1 these are all priorities of the County Executive. And we're going to work very hard to keep
2 them on the schedule that they're recommended at and keep them within the CIP.

3
4 COUNCILMEMBER KNAPP:

5 OK. That's my biggest issue. I just think we need to make sure that that gets said over and
6 over and over again, because I think these communities in particular have been waiting
7 for these renovations for not a year or 2 but many, many, many years. And by doing
8 something which is a good idea, if we bump them out, I just, you know--I just think it's not
9 the right way for us to proceed. So I think we got to say that over and over again. And I
10 think a lot of outreach has got to be done to those communities to let them know that the
11 commitment is there to make sure that those projects are funded as well.

12
13 COUNCIL PRESIDENT ANDREWS:

14 Yes, and I would say that had the Executive's representatives not said that all those
15 projects that are listed on page 4 were priorities and that the Executive did not expect
16 would be impacted by this, I don't think the committee's recommendation would have
17 been the same. So...

18
19 [Councilmember Knapp speaking indistinctly]

20
21 COUNCIL PRESIDENT ANDREWS:

22 Let's see. Actually, that was my next question. I wanted to ask about the status of--there
23 have been many discussions that the Executive branch has had with the city of
24 Gaithersburg, many productive conversations. I'd like to ask what the status is of a formal
25 memorandum of understanding at this point.

26
27 DIANE JONES:

28 I actually do have a formal memorandum of understanding proposed, a draft, that I have
29 received authorization to share with the city, and we will send it to the city. It really--the
30 discussion of the things that we've been asking to do or the things that we've been asked
31 to do have been done very publicly and some of the things, just including at the committee
32 work sessions, where it was asked what were we willing to do. The question was
33 something to that effect, and we indicated the things that we have already said quite
34 publicly that we're willing to do and that we want to do. We want to keep the front of the
35 lake open. We'd like to--we will do a process akin to the mandatory referral process for
36 submission to their own planning commission. It's a comity. We think it's an appropriate--
37 that would be c-o-m-i-t-y, I believe the spelling is. But we think it's appropriate to do that.
38 The trees--we have said repeatedly that if--that we would like to preserve those, but we
39 think that there's a way to do it so that it makes sense for us to do it. We have a lot of
40 projects that require offsets, and so we want to look and make sure we do it properly. So
41 we do have a memorandum to send over. It addresses the things that we've spoken
42 about.

May 13, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 OK. Good. I know the city will be happy to receive it. All right, Council Vice President
3 Berliner.

4
5 COUNCIL VICE PRESIDENT BERLINER:

6 Just a brief follow-up to Councilmember Knapp's observations, which was something that
7 the committee was very concerned about. There was the combination of our staff's
8 recommendation on stretching it out plus the anticipation in the increase in our bond
9 capacity that will ensure that we do have the room for all of these projects. So, if we
10 increase our bond capacity as we have historically in that period of time, I think we have a
11 great deal of confidence that these projects will be on track.

12
13 COUNCILMEMBER KNAPP:

14 And I appreciate that, but that's one of the reasons I'm asking the question because it was
15 about 2 months ago that we were advised very, very, very strongly by the Executive
16 branch to not increase that and because of the economic vagaries that are out there right
17 now. So I agree that in all likelihood things will increase. But the folks who are proposing
18 this have also said don't increase the bond limit. So that's the dichotomy, I think, that's out
19 there. So I just want to make sure that...

20
21 COUNCIL VICE PRESIDENT BERLINER:

22 They had said that in this fiscal year, I believe, that I don't believe that that statement
23 necessarily will hold true as we move forward.

24
25 COUNCILMEMBER KNAPP:

26 That's why I think it's important to ask that question.

27
28 COUNCIL VICE PRESIDENT BERLINER:

29 I understand.

30
31 COUNCIL PRESIDENT ANDREWS:

32 All right. Thank you. Thank you both. All right. We now have the supplemental
33 appropriation before us for \$12,893,000. Source of funds G.O. bonds and interim
34 financing. The appropriations to the FY09 through '14 Capital Improvements Program of
35 county government for Property Use study/Smart Growth Initiative, GE Tech Park
36 building, Public Safety headquarters, and we also have an amendment to the FY09
37 through '14 Capital Improvements Program, Montgomery County Government,
38 Department of Police for the 1st district station. Is there any reason that we cannot take
39 them together? We'll take them together. All right. All those in favor of the committee's
40 recommendations, please raise your hand. That is unanimous, 8-0. And we have one
41 more item, and then we can break. And that is Item 16, which is worksession and action of
42 Bill 14-09, special Capital Improvement Project, Public Safety headquarters. Because the

May 13, 2009



1 project is about a certain level of funding, it requires a special Capital Project
2 authorization. And the committee is recommending approval.

3
4 LINDA McMILLAN:
5 Mr. Andrews?

6
7 COUNCIL PRESIDENT ANDREWS:
8 Yes?

9
10 LINDA McMILLAN:
11 In the committee, we had had a discussion about whether it would be in the best interests
12 of the county to have this as an expedited bill. And at the committee session you were
13 advised no, but the question is that we may need to spend money before 90 days. And so,
14 there is a request, if the committee is agreeable to amending their recommendation, that it
15 be approved as an expedited bill.

16
17 COUNCIL PRESIDENT ANDREWS:
18 All right, I'm agreeable.

19
20 [Councilmembers talking at once]

21
22 COUNCIL PRESIDENT ANDREWS:
23 OK, who else? Let's see. Agreeable? Agreeable? OK, committee recommendation is to
24 make it an expedited bill. MAN:
25 ...at this hour.

26
27 COUNCIL PRESIDENT ANDREWS:
28 All right, this is a roll call because it's a bill. So, the committee recommendation's now that
29 this Bill 14-09, special Capital Improvement Project, Public Safety headquarters be an
30 expedited bill. Will the clerk please call the roll?

31
32 MARY ANNE PARADISE:
33 Mr. Elrich?

34
35 COUNCILMEMBER ELRICH:
36 Yes.

37
38 MARY ANNE PARADISE:
39 Miss Trachtenberg?

40
41 COUNCILMEMBER TRACHTENBERG:
42 Yes.

May 13, 2009



1 MARY ANNE PARADISE:
2 Miss Floreen?
3
4 COUNCILMEMBER FLOREEN:
5 You bet.
6
7 MARY ANNE PARADISE:
8 Mr. Leventhal?
9
10 COUNCILMEMBER LEVENTHAL:
11 Yes.
12
13 MARY ANNE PARADISE:
14 Miss Ervin?
15
16 COUNCILMEMBER ERVIN:
17 Yes.
18
19 MARY ANNE PARADISE:
20 Mr. Knapp?
21
22 COUNCILMEMBER KNAPP:
23 Yes.
24
25 MARY ANNE PARADISE:
26 Mr. Berliner?
27
28 COUNCIL VICE PRESIDENT BERLINER:
29 Yes.
30
31 MARY ANNE PARADISE:
32 Mr. Andrews?
33
34 COUNCIL PRESIDENT ANDREWS:
35 Yes. The bill is approved 8-0. Thank you, everybody. That concludes council business for
36 the day.
37